
By: **Delegate Barve**
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CHAPTER _____

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~~ authorizing the declaration of trust or bylaws of a
22 real estate investment trust to provide for certain committees of the board;
23 repealing certain provisions of law prohibiting real estate investment trusts
24 from holding certain assets and using or applying land for certain purposes;
25 providing that certain stockholder approval and certain articles of transfer or
26 share exchange or both are not required in certain circumstances; establishing a
27 short title; providing for the ~~application~~ construction of certain provisions of this
28 Act; and generally relating to corporations and real estate investment trusts.

1 BY repealing and reenacting, with amendments,
2 Article - Corporations and Associations
3 Section 1-207, 1-401, 2-105, 2-203, 2-211, 2-406, 2-503, 3-104, 3-105,
4 3-202(a)(3), 3-601(j), 8-203(a) and (c); 8-301(7) to be under the amended
5 subtitle "Subtitle 3. Powers"; and 8-501.1
6 Annotated Code of Maryland
7 (1993 Replacement Volume and 1998 Supplement)

8 BY repealing
9 Article - Corporations and Associations
10 Section 8-302
11 Annotated Code of Maryland
12 (1993 Replacement Volume and 1998 Supplement)

13 BY adding to
14 Article - Corporations and Associations
15 Section 2-310(a)(3), 8-203(h), and 8-206; and 8-801 to be under the new
16 subtitle "Subtitle 8. Short Title"
17 Annotated Code of Maryland
18 (1993 Replacement Volume and 1998 Supplement)

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

21 **Article - Corporations and Associations**

22 1-401.

23 (a) Service of process on the resident agent of a corporation, partnership,
24 limited partnership, limited liability partnership, [or] limited liability company, OR
25 REAL ESTATE INVESTMENT TRUST, or any other person binds the corporation,
26 partnership, limited partnership, limited liability partnership, [or] limited liability
27 company, OR REAL ESTATE INVESTMENT TRUST, or other person in any action, suit, or
28 proceeding which is pending, filed, or instituted against it under the provisions of this
29 article.

30 (b) (1) Any notice required by law to be served by personal service on a
31 resident agent or other agent or officer of any Maryland or foreign corporation,
32 partnership, limited partnership, limited liability partnership, [or] limited liability
33 company, OR REAL ESTATE INVESTMENT TRUST required by statute to have a
34 resident agent in this State may be served on the corporation, partnership, limited
35 partnership, limited liability partnership, [or] limited liability company, OR REAL
36 ESTATE INVESTMENT TRUST in the manner provided by the Maryland Rules relating
37 to the service of process on corporations.

38 (2) Service under the Maryland Rules is equivalent to personal service
39 on a resident agent or other agent or officer of a corporation, partnership, limited

1 partnership, limited liability partnership, [or] limited liability company, OR REAL
2 ESTATE INVESTMENT TRUST mentioned in paragraph (1) of this subsection.

3 2-203.

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

6 (1) Authorizes the issuance;

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

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

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

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

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

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

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

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

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

22 (e) If its issuance is authorized in accordance with this subtitle, stock with par
23 value and securities convertible into stock with par value may be issued as full paid
24 and nonassessable even if the price or value of the consideration received is less than
25 the par value of the stock issued or the stock into which the securities are convertible.
26 2-211.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 2-503.

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

29 (1) Provided in the bylaws; or

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

31 3-105.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (D) AN AGREEMENT OF CONSOLIDATION, MERGER, SHARE EXCHANGE, OR
36 TRANSFER OF ASSETS MAY REQUIRE THAT THE PROPOSED TRANSACTION SHALL BE
37 SUBMITTED TO THE STOCKHOLDERS, EVEN IF THE BOARD OF DIRECTORS

1 DETERMINES AT ANY TIME AFTER HAVING DECLARED THE ADVISABILITY OF THE
2 PROPOSED TRANSACTION THAT THE PROPOSED TRANSACTION IS NO LONGER
3 ADVISABLE AND EITHER MAKES NO RECOMMENDATION TO THE STOCKHOLDERS OR
4 RECOMMENDS THAT THE STOCKHOLDERS REJECT THE PROPOSED TRANSACTION.

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

8 3-202.

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

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

14 3-601.

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

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

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

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

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

27 (2) For the purpose of determining whether a person is an interested
28 ~~{stockholder,} STOCKHOLDER:~~

29 ~~(I) {the} THE~~ number of shares of voting stock deemed to be
30 outstanding shall include shares deemed owned by the person through application of
31 subsection (d) of this section but may not include any other shares of voting stock
32 which may be issuable pursuant to any agreement, arrangement, or understanding,
33 or upon exercise of conversion rights, warrants or options, or otherwise; ~~AND.~~

34 ~~(H) THE AGGREGATE NUMBER OF SHARES OF VOTING STOCK OF~~
35 ~~WHICH THE PERSON IS THE BENEFICIAL OWNER MAY NOT INCLUDE ANY SHARES OF~~
36 ~~VOTING STOCK ACQUIRED BY SUCH PERSON IF THE ACQUISITION BY SUCH PERSON~~
37 ~~OF SUCH SHARES, INCLUDING THE NUMBER OF SHARES ACQUIRED, WAS EXPRESSLY~~

1 8-501.1.

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

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

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

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

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

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

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

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

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

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

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

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

1 (1) A foreign business trust, a Maryland business trust, other than a
2 Maryland real estate investment trust, a corporation, a domestic or foreign
3 partnership, or a domestic or foreign limited partnership party to the merger shall
4 have the merger advised, authorized, and approved in the manner and by the vote
5 required by its declaration of trust, charter, or partnership agreement and the laws of
6 the place where it is organized;

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

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

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

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

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

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

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

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

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

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

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

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

1 (F) AN AGREEMENT OF MERGER MAY REQUIRE THAT THE PROPOSED
2 TRANSACTION SHALL BE SUBMITTED TO THE SHAREHOLDERS, EVEN IF THE BOARD
3 OF TRUSTEES DETERMINES AT ANY TIME AFTER HAVING DECLARED THE
4 ADVISABILITY OF THE PROPOSED TRANSACTION THAT THE PROPOSED TRANSACTION
5 IS NO LONGER ADVISABLE AND EITHER MAKES NO RECOMMENDATION TO THE
6 SHAREHOLDERS OR RECOMMENDS THAT THE SHAREHOLDERS REJECT THE
7 PROPOSED TRANSACTION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 [(m)] (N) (1) If the successor in a merger is a foreign corporation, foreign
4 partnership, foreign limited partnership, a foreign limited liability company, or a
5 Maryland or foreign business trust, other than a Maryland real estate investment
6 trust, the merger is effective as of the later of:

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

9 (ii) The time the Department accepts the articles of merger for
10 record.

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

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

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

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

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

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

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

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

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

4 SUBTITLE 8. SHORT TITLE.

5 8-801.

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

7 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
8 read as follows:

9 **Article - Corporations and Associations**

10 1-207.

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

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

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

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

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

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

21 (c) A certificate of correction may not:

22 (1) Alter the wording of any resolution which was adopted by the board
23 of directors, THE BOARD OF TRUSTEES, [or] the stockholders, OR THE
24 SHAREHOLDERS of a party to the document being corrected; or

25 (2) Make any other change or amendment which would not have
26 complied in all respects with the requirements of this article at the time the document
27 being corrected was filed.

28 (d) A certificate of correction shall be executed in the same manner in which
29 the document being corrected was required to be executed.

30 (e) A certificate of correction may not:

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

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

5 2-105.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (e) If its issuance is authorized in accordance with this subtitle, stock with par
17 value and securities convertible into stock with par value may be issued as full paid
18 and nonassessable even if the price or value of the consideration received is less than
19 the par value of the stock issued or the stock into which the securities are convertible.
20 2-310.

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

27 2-406.

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

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

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

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

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

9 3-104.

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

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

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

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

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

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

24 8-203.

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

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

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

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

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

1 (5) For any other preferences, rights, restrictions, including restrictions
2 on transferability OR OWNERSHIP designed to permit the real estate investment trust
3 to qualify under the Internal Revenue Code or regulations adopted under the Code or
4 for any other purpose, and qualifications not inconsistent with law;

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

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

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

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

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

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

26 8-206.

27 THE DECLARATION OF TRUST OF BYLAWS OF A REAL ESTATE INVESTMENT
28 TRUST MAY PROVIDE FOR ONE OR MORE COMMITTEES OF THE BOARD OF TRUSTEES
29 COMPOSED OF ONE OR MORE TRUSTEES AND FOR THE DELEGATION TO THOSE
30 COMMITTEES OF ANY OF THE POWERS OF THE BOARD OF TRUSTEES.

31 SECTION 3. AND BE IT FURTHER ENACTED, That changes made to the
32 Corporations and Associations Article under Section 2 of this Act ~~shall be construed~~
33 ~~retroactively and may be applied before, on, or after the effective date of this Act may~~
34 not be construed to invalidate any action of a corporation, real estate investment
35 trust, board of directors of a corporation, or board of trustees of a real estate
36 investment trust taken before the effective date of this Act or to invalidate any
37 provision contained in a charter or bylaws of a corporation or the declaration of trust
38 or bylaws of a real estate investment trust before the effective date of this Act.

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

