

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 737

(Delegates Doory and Feldman)

Economic Matters

Judicial Proceedings

Corporations - Miscellaneous Provisions

This bill makes various changes to the laws governing corporate actions, including provisions governing a reverse stock split under a corporate charter, signatures on corporate securities, stockholder consent, and corporate dissolution.

The bill takes effect June 1, 2004.

Fiscal Summary

State Effect: The bill will not directly affect government operations or finances.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Amendment of Corporate Charter

The bill authorizes, unless the corporation's charter provides otherwise, the board of directors of a corporation with stock registered with securities under the Securities and Exchange Act of 1934 or registered as an open-ended investment company under the Investment Company Act of 1940 to amend its corporate charter to effect a reverse stock split resulting in a ratio of no more than 10 to 1 in any 12-month period: (1) upon

approval of a majority of the entire board; and (2) without stockholder approval. Within 20 days after the effective time of the reverse stock split, the corporation must give written notice of the reverse split to each holder of record as of the effective date.

Signature on Certificates of Stock and Other Securities

The bill includes the chief executive officer, chief operating officer, chief financial officer, and vice chairman of the board on the list of persons authorized to sign a stock certificate.

Stockholder Consent

The bill authorizes the holders of corporate common stock entitled to vote generally in the election of directors, if authorized by the corporate charter, to take action or consent to any action (by delivering consent in writing or by electronic transmission) of the stockholders entitled to cast at least the minimum number of votes that would be necessary to authorize or take the action at a stockholders meeting if the corporation gives notice of the action to each holder of the class of common stock no later than 10 days after the action's effective date.

Any consent authorized by the bill must be delivered to the corporation's principal office in the State, its resident agent, or the officer or agent of the corporation that has custody of the book in which proceedings of minutes of stockholder meetings are recorded. A stockholder may deliver this consent in paper form, by hand, by certified or registered mail (return receipt requested), or by electronic transmission.

The board may adopt reasonable procedures for delivering consents instead of holding a meeting. Written consent does not take effect unless written consents signed by a sufficient number of stockholders to take action are delivered to the corporation within 60 days after the date on which the earliest consent is dated. Any charter documents filed with the State Department of Assessments and Taxation relating to an action taken by consent may state that the action was approved by the stockholders under the consent provisions of the bill or current law.

Corporate Dissolution

The corporation's board of directors, as the board of directors rather than as director-trustees, continues to handle corporate affairs when a corporation is voluntarily dissolved. Specifically, until a court appoints a receiver, the board of directors must manage the business and affairs of the corporation solely for the purpose of winding up the

corporation. Dissolution does not subject the corporation's directors to a different standard of conduct.

Current Law:

Amendment of Corporate Charter

Generally, a corporation's stockholders must approve a corporate charter amendment by two-thirds of the votes entitled to be cast on the matter.

Signature on Certificates of Stock and Other Securities

A corporation's stock certificate must be signed by the president, a vice president, or the chairman of the board, and countersigned by the secretary, an assistant secretary, the treasurer, or an assistant treasurer.

Stockholder Consent

Generally, any action required or permitted to be taken at a stockholder meeting may be taken without a meeting if unanimous consent that sets forth the action is: (1) given in writing or by electronic transmission by each stockholder entitled to vote on the matter; and (2) filed in paper or electronic form. Unless a corporate charter requires otherwise, the holders of any class of stock other than common stock, entitled to vote generally in the election of directors, may take action or consent to an action taken by delivering the consent in writing or by electronic transmission of the stockholders entitled to cast at least the required minimum number of votes if the corporation gives notice of the action to each stockholder no later than 10 days after the action's effective time.

Corporate Dissolution

When a Maryland corporation is voluntarily dissolved, until a court appoints a receiver, the directors become the trustees of the corporate assets for the purposes of liquidation.

Additional Information

Prior Introductions: Bills with provisions similar to some of the provisions of this bill were introduced during the 2002 session. SB 123 and HB 388 contained a provision similar to the bill's signature provision. SB 123 received an unfavorable report from the Senate Judicial Proceedings Committee. HB 388 passed third reading in the House but received unfavorable reports from the Senate Judicial Proceedings Committee. HB 1114

contained a provision similar to the bill's corporate charter provision. It received an unfavorable report from the House Economic Matters Committee.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Department of Legislative Services

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