

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 688

(Senator Raskin)

Judicial Proceedings

Economic Matters

Maryland General Corporation Law - Miscellaneous Provisions

This bill alters various provisions of the Maryland General Corporation Law pertaining to the execution of corporate charter documents, stockholder voting rights, and the delegation of powers by a board of directors. The bill further alters notification requirements for certain stockholder meetings and related electronic notification procedures. The bill authorizes a stockholders meeting to be postponed for a certain period of time and exempts a corporation with federally registered equity securities from certain dissolution procedures.

The bill takes effect June 1, 2010.

Fiscal Summary

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

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Bill Summary:

Execution of Articles

The bill allows the chief financial officer (CFO), another authorized officer, or authorized agent of a corporation, business trust, or real estate investment trust (REIT) to sign and acknowledge articles supplementary and articles of amendment, restatement, amendment and restatement, consolidation, merger, share exchange, transfer, and extension and, except as otherwise provided, articles of dissolution (articles).

The bill allows the treasurer, CFO, and assistant treasurer of a corporation, business trust, or REIT to witness and attest to the articles. A person acting in a similar capacity as an officer for the entity may also sign and acknowledge the articles. With respect to the authorization and approval of the articles, the CFO or other authorized officer or agent of a corporation, business trust, or REIT may verify their contents under oath.

Corporate Charter Provisions Relating to Classes or Series of Stock

The bill expands references to corporate charter provisions governing classes of stock to apply to series of stock as well. Furthermore, the bill allows a corporate charter to state that stockholders of one or more classes or series of stock have exclusive voting rights on a charter amendment that would alter only the contract rights pertaining to that specified class or series of stock.

Delegation of Powers Related to Distributions

If a corporation's board of directors has generally authorized a distribution and has existing methods or procedures to determine the maximum amount of the distribution, the bill repeals the authority of the board of directors to delegate that power to a committee of the board. The power to fix the amount and other terms of the distribution may continue to be delegated to a corporate officer.

In addition, the bill allows a corporation's board of directors to delegate the power to authorize dividends on stock to an executive committee or other committee composed of one or more directors.

Meetings, Notices, and Stockholder Proposals

The corporation's charter or bylaws may require any stockholder proposing a nominee for election as a corporate director or any other matter to be considered at a stockholders

meeting to provide advance notice to the corporation before a date or within a period of time specified in the charter or bylaws. The bill repeals specific time periods set forth in statute.

In addition, the bill allows a corporation to provide a single notice to all stockholders who share the same address unless the corporation receives a request in writing or electronically that a single notice not be given to all stockholders sharing a single address.

The bill also allows a stockholders meeting to be postponed from time to time for up to 120 days from the original record date of the stockholders meeting.

If there is any stock outstanding or subscribed for and entitled to vote on an amendment to the corporate charter, notice of the meeting to vote on the proposed amendment must:

- include a copy of the amendment or a summary of the proposed changes; or
- identify a web site at which the amendment or summary may be accessed; and
- include a telephone number or address where the stockholder may request a paper copy of the amendment or summary without charge.

Grounds for Petition by Stockholders or Creditors for Involuntary Dissolution

In general, certain stockholders entitled to vote in the election of a corporation's directors may petition a court of equity to dissolve the corporation on the grounds that the stockholders are so divided that certain directors cannot be elected. The bill exempts a corporation that has a class of equity securities registered under the federal Securities Exchange Act of 1934 from these provisions.

Current Law:

Execution of Articles

Certain articles must be signed and acknowledged for a corporation, business trust, or REIT by the entity's chairman or vice chairman of the board of directors or board of trustees, its chief executive officer, chief operating officer, president, or one of its vice presidents. The articles must be witnessed or attested by the secretary, assistant secretary, or any other authorized officer or agent of the entity. The articles must be signed and acknowledged for each other entity party by a majority of the entire board of trustees or other governing body.

The matters and facts set forth in the articles of a Maryland entity with respect to authorization and approval must be verified under oath by:

- the chairman or the secretary of the meeting at which the articles or transaction were approved;
- the chairman or vice chairman of the board of directors or board of trustees; or
- the chief executive officer, chief operating officer, president, vice president, secretary, or assistant secretary of the entity.

Delegation of Powers Related to Distributions

A corporation's board of directors may delegate powers to an executive committee and other committees composed of one or more directors, except the power to authorize certain dividends on stock; issue stock except as otherwise provided; recommend actions to the stockholders that require stockholder approval, other than the election of directors; amend the bylaws; or approve a merger or share exchange that does not require stockholder approval.

Meetings, Notices, and Stockholder Proposals

A corporation's charter or bylaws may require any stockholder proposing a nominee for election as a director or any other matter to be considered at a stockholders meeting to provide advance notice of no more than:

- 90 days before the meeting date; or
- in the case of an annual meeting, 90 days before the first anniversary of either the mailing date of the notice of the preceding year's annual meeting or the date of the preceding year's annual meeting; or
- another time specified in the charter or bylaws.

Subject to other provisions of law, a corporation's notice to a stockholder is effective if given by a single notice, in writing or by electronic transmission, to all stockholders who share an address. The notice procedures are valid if the corporation notifies the stockholder of its intent to give a single notice and the stockholder consents or fails to object in writing within 60 days after the corporation gives notice. A stockholder may revoke consent, whether affirmative or implied, by written notice to the corporation.

Additional Information

Prior Introductions: None.

Cross File: HB 972 (Delegate Feldman) - Economic Matters.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

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