

SENATE BILL 1065

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CF HB 1544

By: **Senator Feldman**

Introduced and read first time: February 19, 2016

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Corporations – Maryland General Corporation Law – Miscellaneous Provisions**

3 FOR the purpose of requiring the State Department of Assessments and Taxation to collect
4 a certain additional fee for processing a certified list of certain charter documents or
5 certificates of certain business entities on an expedited basis; altering certain
6 requirements for the execution and signing of certain documents; prohibiting the
7 charter or bylaws of a corporation from imposing liability on a certain stockholder
8 for the attorney's fees or expenses of the corporation or any other party in connection
9 with a certain claim; authorizing the charter or bylaws of a corporation, consistent
10 with certain requirements, to require that certain claims be brought only in certain
11 courts; prohibiting certain provisions of the charter or bylaws of a corporation from
12 prohibiting certain claims from being brought in certain courts; altering the officers
13 of a corporation required to countersign a stock certificate; authorizing the board of
14 directors of a corporation to adopt a certain procedure by resolution unless the
15 charter or bylaws provide otherwise; requiring a certain number of the last acting
16 officers of a corporation, the charter of which has been forfeited for certain reasons,
17 instead of the president or vice president, the secretary, and the treasurer, to sign
18 and acknowledge articles of revival and file them with the Department; requiring
19 that the directors manage the assets, rather than become the trustees of the assets,
20 of a corporation for purposes of liquidating the assets when the corporation's charter
21 has been forfeited; requiring the directors to take certain actions unless and until
22 articles of revival are filed; repealing a provision of law authorizing the directors to
23 sue or be sued in their own names as trustees; repealing a provision of law
24 establishing that the director-trustees govern by majority vote; providing that
25 forfeiture of the charter of a corporation does not subject a director of the corporation
26 to a certain standard of conduct; authorizing a nonstock corporation to convert only
27 into a certain foreign corporation; making certain provisions of this Act applicable to
28 real estate investment trusts; making certain conforming changes; defining a certain
29 term; and generally relating to the Maryland General Corporation Law and real
30 estate investment trusts.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY renumbering
 2 Article – Corporations and Associations
 3 Section 1–101(p) through (cc), respectively
 4 to be Section 1–101(q) through (dd), respectively
 5 Annotated Code of Maryland
 6 (2014 Replacement Volume and 2015 Supplement)

7 BY adding to
 8 Article – Corporations and Associations
 9 Section 1–101(p) and 2–113
 10 Annotated Code of Maryland
 11 (2014 Replacement Volume and 2015 Supplement)

12 BY repealing and reenacting, with amendments,
 13 Article – Corporations and Associations
 14 Section 1–203(b)(8), 1–301, 2–212(a), 2–514(a), 3–507(b)(1), 3–515, 5–207, and
 15 8–601.1
 16 Annotated Code of Maryland
 17 (2014 Replacement Volume and 2015 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 19 That Section(s) 1–101(p) through (cc), respectively, of Article – Corporations and
 20 Associations of the Annotated Code of Maryland be renumbered to be Section(s) 1–101(q)
 21 through (dd), respectively.

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

24 **Article – Corporations and Associations**

25 1–101.

26 **(P) “INTERNAL CORPORATE CLAIM” MEANS A CLAIM, INCLUDING A CLAIM**
 27 **BROUGHT BY OR IN THE RIGHT OF A CORPORATION:**

28 **(1) BASED ON AN ALLEGED BREACH BY A DIRECTOR, AN OFFICER, OR**
 29 **A STOCKHOLDER OF A DUTY OWED TO THE CORPORATION OR THE STOCKHOLDERS**
 30 **OF THE CORPORATION OR A STANDARD OF CONDUCT APPLICABLE TO DIRECTORS;**

31 **(2) ARISING UNDER ANY PROVISION OF THIS ARTICLE; OR**

32 **(3) ARISING UNDER ANY PROVISION OF THE CHARTER OR BYLAWS OF**
 33 **THE CORPORATION.**

34 1–203.

1 (b) (8) For processing each of the following documents on an expedited basis,
2 the additional fee is as indicated:

3 Recording any document, including financing statements, or
4 submitting for preclearance any document listed in paragraph (1) or (4) of
5 this subsection, if processing under § 1-203.2(b)(1) of this subtitle is
6 requested..... \$425

7 Recording any document, including financing statements, or
8 submitting for preclearance any document listed in paragraph (1) or (4) of
9 this subsection, if processing under § 1-203.2(b)(1) is not requested \$50

10 Certificate of status of a corporation, partnership, limited
11 partnership, limited liability partnership, or limited liability company, or a
12 name reservation \$20

13
14 **CERTIFIED LIST OF THE CHARTER DOCUMENTS OF A**
15 **MARYLAND CORPORATION OR ANY CERTIFICATE OF A MARYLAND**
16 **LIMITED PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, OR**
17 **LIMITED LIABILITY COMPANY RECORDED OR FILED WITH THE**
18 **DEPARTMENT..... \$20**

19 A copy of any document recorded or filed with the Department, or a
20 corporate abstract..... \$20

21 Application for a ground rent redemption or a ground rent
22 extinguishment, or payment of a redemption or extinguishment amount to
23 the former owner of the ground rent..... \$50

24 1-301.

25 (a) Articles supplementary and articles of amendment, restatement, amendment
26 and restatement, consolidation, merger, share exchange, transfer, conversion, and
27 extension and, except as provided in § 3-406(b) of this article, articles of dissolution shall
28 be executed as follows:

29 (1) They shall be signed and acknowledged for each corporation, statutory
30 trust, or real estate investment trust party to the articles, by its chairman or vice chairman
31 of the board of directors or board of trustees, by its chief executive officer, chief operating
32 officer, chief financial officer, president, or one of its vice presidents, or, if authorized by the
33 bylaws or resolution of the board of directors or board of trustees [and the articles so state],
34 by any other officer or agent of the corporation, statutory trust, or real estate investment
35 trust;

36 (2) They shall be witnessed or attested by the secretary, treasurer, chief
37 financial officer, assistant treasurer, or assistant secretary of each corporation, statutory
38 trust, or real estate investment trust party to the articles, or, if authorized by the bylaws

1 or resolution of the board of directors or board of trustees [and the articles so state], by any
2 other officer or agent of the corporation, statutory trust, or real estate investment trust;

3 (3) They shall be signed and acknowledged for each other entity party to
4 the articles by a person authorized to act for the entity by law or by the governing document;
5 and

6 (4) Except as provided in subsection (b) of this section, the matters and
7 facts set forth in the articles with respect to authorization and approval shall be verified
8 under oath as follows:

9 (i) With respect to any Maryland corporation, statutory trust, or
10 real estate investment trust party to the articles, by the chairman or the secretary of the
11 meeting at which the articles or transaction were approved, by the chairman or vice
12 chairman of the board of directors or board of trustees, by the chief executive officer, chief
13 operating officer, chief financial officer, president, vice president, secretary, or assistant
14 secretary of the corporation, statutory trust, or real estate investment trust, or, if
15 authorized in accordance with item (1) of this subsection [and the articles so state], by any
16 other officer or agent of the corporation, statutory trust, or real estate investment trust;

17 (ii) With respect to any foreign corporation party to articles of
18 consolidation, merger, or share exchange, by the chief executive officer, chief operating
19 officer, chief financial officer, president, vice president, secretary, or assistant secretary of
20 the corporation; and

21 (iii) With respect to any other Maryland or foreign entity party to the
22 articles, by a person authorized by law or by the governing document to act for the entity.

23 (b) When articles of transfer are executed:

24 (1) With respect to the transferor corporation, the requirements of
25 subsection (a)(4)(i) of this section apply;

26 (2) With respect to a transferee corporation, the matters and facts set forth
27 in the articles with respect to authorization and approval shall be verified under oath by
28 the chief executive officer, chief operating officer, president, vice president, secretary, or
29 assistant secretary of the corporation; and

30 (3) With respect to a transferee which is not a corporation, the articles shall
31 be signed and acknowledged by the transferee.

32 (c) All other instruments required to be filed with the Department may be signed:

33 (1) By the chairman or vice chairman of the board of directors, the chief
34 executive officer, chief operating officer, president, or any vice president and witnessed or
35 attested by the secretary or any assistant secretary, or by any other officer or agent of the

1 corporation who is authorized by the bylaws or resolution of the board of directors to
2 perform the duties usually performed by the secretary [and the instrument so states];

3 (2) If it appears from the instrument that there are no such officers, by a
4 majority of the directors or by such directors as may be designated by the board and the
5 instrument so states; or

6 (3) If it appears from the instrument that there are no officers or directors,
7 by the holders of a majority of outstanding stock.

8 **2-113.**

9 (A) **THE CHARTER OR BYLAWS OF A CORPORATION MAY NOT IMPOSE**
10 **LIABILITY ON A STOCKHOLDER WHO IS A PARTY TO AN INTERNAL CORPORATE CLAIM**
11 **FOR THE ATTORNEY'S FEES OR EXPENSES OF THE CORPORATION OR ANY OTHER**
12 **PARTY IN CONNECTION WITH AN INTERNAL CORPORATE CLAIM.**

13 (B) (1) **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**
14 **THE CHARTER OR BYLAWS OF A CORPORATION MAY REQUIRE, CONSISTENT WITH**
15 **APPLICABLE JURISDICTIONAL REQUIREMENTS, THAT ANY INTERNAL CORPORATE**
16 **CLAIM BE BROUGHT ONLY IN COURTS SITTING IN ONE OR MORE SPECIFIED**
17 **JURISDICTIONS.**

18 (2) (I) **THIS PARAGRAPH DOES NOT APPLY TO A PROVISION**
19 **CONTAINED IN THE CHARTER OR BYLAWS OF A CORPORATION ON JULY 1, 2016,**
20 **UNLESS AND UNTIL THE PROVISION IS ALTERED OR REPEALED BY AN AMENDMENT**
21 **TO THE CHARTER OR BYLAWS OF THE CORPORATION, AS APPLICABLE.**

22 (II) **THE CHARTER OR BYLAWS OF A CORPORATION MAY NOT**
23 **PROHIBIT BRINGING AN INTERNAL CORPORATE CLAIM IN THE COURTS OF THIS**
24 **STATE OR A FEDERAL COURT SITTING IN THIS STATE.**

25 **2-212.**

26 (a) Each stock certificate shall be signed by the president, a vice president, the
27 chief executive officer, the chief operating officer, the chief financial officer, the chairman
28 of the board, or the vice chairman of the board and countersigned by the secretary, an
29 assistant secretary, the treasurer, [or] an assistant treasurer, **OR ANY OTHER OFFICER.**

30 **2-514.**

31 (a) [If the] **THE** charter or bylaws of a corporation [so] **MAY** provide[,] **AND,**
32 **UNLESS THE CHARTER OR BYLAWS PROVIDE OTHERWISE,** the board of directors may
33 adopt by resolution a procedure by which a stockholder of the corporation may certify in

1 writing to the corporation that any shares of stock registered in the name of the stockholder
2 are held for the account of a specified person other than the stockholder.

3 3-507.

4 (b) (1) [The] **ANY TWO OF THE** last acting [president or vice president and
5 secretary or treasurer] **OFFICERS** of the corporation shall sign and acknowledge articles of
6 revival and file them for record with the Department.

7 3-515.

8 (a) When the charter of a Maryland corporation has been forfeited, until a court
9 appoints a receiver, the directors of the corporation [become the trustees of] **SHALL**
10 **MANAGE** its assets for purposes of liquidation.

11 (b) [The director-trustees are vested in their capacity as trustees with full title
12 to all the assets of the corporation. They] **UNLESS AND UNTIL ARTICLES OF REVIVAL**
13 **ARE FILED, THE DIRECTORS** shall:

14 (1) Collect and distribute the assets, applying them to the payment,
15 satisfaction, and discharge of existing debts and obligations of the corporation, including
16 necessary expenses of liquidation; and

17 (2) Distribute the remaining assets among the stockholders.

18 (c) The [director-trustees] **DIRECTORS** may:

19 (1) Carry out the contracts of the corporation;

20 (2) Sell all or any part of the assets of the corporation at public or private
21 sale;

22 (3) Sue or be sued [in their own names as trustees or] in the name of the
23 corporation; and

24 (4) Do all other acts consistent with law and the charter of the corporation
25 necessary or proper to liquidate the corporation and wind up its affairs.

26 [(d) The director-trustees govern by majority vote.]

27 **(D) FORFEITURE OF THE CHARTER OF A CORPORATION DOES NOT SUBJECT**
28 **A DIRECTOR OF THE CORPORATION TO A STANDARD OF CONDUCT OTHER THAN THE**
29 **STANDARD OF CONDUCT SET FORTH IN § 2-405.1 OF THIS ARTICLE.**

30 5-207.

1 (a) A nonstock corporation may [consolidate]:

2 (1) CONSOLIDATE or merge only with another nonstock corporation; AND

3 (2) CONVERT ONLY INTO A FOREIGN CORPORATION THAT CANNOT
4 ISSUE STOCK.

5 (b) A consolidation, merger, [or] transfer of assets, OR CONVERSION of a
6 nonstock corporation shall be effected as provided in Title 3 of this article.

7 (c) Notwithstanding § 3-105(e) of this article, a proposed consolidation, merger,
8 [or] transfer of assets, OR CONVERSION of a nonstock corporation organized to hold title
9 to property for a labor organization, and for related purposes, shall be approved by the same
10 affirmative vote of the members of the corporation that the constitution or bylaws of the
11 labor organization requires for the same action.

12 8-601.1.

13 Sections 2-201(c), **2-113**, 2-313, 2-405.1(d) through (g), 2-502(e), and 2-504(f) of
14 this article shall apply to real estate investment trusts.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
16 1, 2016.