

HOUSE BILL 668

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CF SB 469

By: **Delegate Dumais**

Introduced and read first time: January 29, 2020

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 3, 2020

CHAPTER _____

1 AN ACT concerning

2 **Corporations and Associations – Corporations and Real Estate Investment**
3 **Trusts – Miscellaneous**

4 FOR the purpose of providing for the effective date of certain articles of incorporation filed
5 with the State Department of Assessments and Taxation for record; authorizing
6 certain articles of incorporation to contain a provision providing for the effective date
7 of the articles; authorizing indemnification of a board of directors by a certain vote
8 of certain directors or by a certain vote of a committee of the board; providing that
9 certain stockholders' rights of inspection do not apply to certain corporations;
10 requiring a certain charter amendment by a Maryland corporation to be approved in
11 a certain manner; requiring articles of merger to include a restatement if the
12 restatement is to be effected as part of the merger; requiring a dissolution of a certain
13 Maryland corporation to be approved in a certain manner; authorizing the charter
14 or bylaws of a certain corporation to authorize voting in a certain manner and
15 regulate certain matters; defining a certain term; making conforming changes;
16 making stylistic changes; and generally relating to corporations and real estate
17 investment trusts.

18 BY repealing and reenacting, with amendments,
19 Article – Corporations and Associations
20 Section 2–102(b), 2–104(b), 2–406(b), 2–408(a), 2–418(e), 2–513, 2–604, 3–104(a),
21 3–105(a), 3–109(d), 3–403, 3–903, 5–202, 8–205(b), 8–601.1, and 8–703
22 Annotated Code of Maryland
23 (2014 Replacement Volume and 2019 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, without amendments,
2 Article – Corporations and Associations
3 Section 8–101(a)
4 Annotated Code of Maryland
5 (2014 Replacement Volume and 2019 Supplement)

6 BY adding to
7 Article – Corporations and Associations
8 Section 8–101(e)
9 Annotated Code of Maryland
10 (2014 Replacement Volume and 2019 Supplement)

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

13 **Article – Corporations and Associations**

14 2–102.

15 (b) (1) [When the Department accepts articles of incorporation for record, the]
16 A proposed corporation becomes a body corporate under the name and subject to the
17 purposes, conditions, and provisions stated in the articles **OF INCORPORATION,**
18 **EFFECTIVE AS OF THE LATER OF:**

19 (I) **THE TIME THE DEPARTMENT ACCEPTS THE ARTICLES FOR**
20 **RECORD; OR**

21 (II) **THE TIME ESTABLISHED UNDER THE ARTICLES, NOT LATER**
22 **THAN 30 DAYS AFTER THE DEPARTMENT ACCEPTS THE ARTICLES FOR RECORD.**

23 (2) Except in a proceeding by the State for forfeiture of a corporation's
24 charter, acceptance of the articles for record by the Department is conclusive evidence of
25 the formation of the corporation.

26 (3) (I) The Department may not accept articles of incorporation from a
27 fire or rescue organization to be located in Frederick County for the purpose of providing
28 fire or rescue service in Frederick County unless the articles are accompanied by a written
29 resolution of the governing body of Frederick County indicating approval of the proposed
30 incorporation.

31 (II) Incorporated municipalities in Frederick County with primary
32 responsibility for governmental funding for fire service shall within their jurisdiction hold
33 those powers assigned to the governing body of Frederick County in this [section]
34 **PARAGRAPH.**

35 2–104.

1 (b) The articles of incorporation may include:

2 (1) Any provision not inconsistent with law that defines, limits, or
3 regulates the powers of the corporation, its directors and stockholders, any class of its
4 stockholders, or the holders of any bonds, notes, or other securities that it may issue;

5 (2) Any restriction not inconsistent with law on the transferability of stock
6 of any class;

7 (3) Any provision authorized by this article to be included in the bylaws;

8 (4) Any provision that requires for any purpose the concurrence of a greater
9 proportion of the votes of all classes **OR SERIES** or of any class **OR SERIES** of stock than
10 the proportion required by this article for that purpose;

11 (5) A provision that requires for any purpose a lesser proportion of the
12 votes of all classes **OR SERIES** or of any class **OR SERIES** of stock than the proportion
13 required by this article for that purpose, but this proportion may not be less than a majority
14 of all the votes entitled to be cast on the matter;

15 (6) A provision that divides its directors into classes **OR SERIES** and
16 specifies the term of office of each class **OR SERIES**;

17 (7) A provision for minority representation through cumulative voting in
18 the election of directors and the terms on which cumulative voting rights may be exercised;

19 (8) A provision that varies in accordance with § 2–405.2 of this title the
20 standards for liability of the directors and officers of a corporation for money damages;
21 [and]

22 (9) A provision that allows the board of directors, in considering a potential
23 acquisition of control of the corporation, to consider the effect of the potential acquisition of
24 control on:

25 (i) Stockholders, employees, suppliers, customers, and creditors of
26 the corporation; and

27 (ii) Communities in which offices or other establishments of the
28 corporation are located; **AND**

29 **(10) A PROVISION THAT CONTAINS A FUTURE EFFECTIVE DATE FOR**
30 **THE ARTICLES OF INCORPORATION THAT IS NOT LATER THAN 30 DAYS AFTER THE**
31 **ARTICLES ARE ACCEPTED BY THE DEPARTMENT FOR RECORD.**

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

2 (1) If the stockholders of any class or series are entitled separately to elect
3 one or more directors, a director elected by **[a] STOCKHOLDERS OF THAT** class or series
4 may not be removed without cause except by the affirmative vote of a majority of all the
5 votes of that class or series;

6 (2) If a corporation has cumulative voting for the election of directors and
7 fewer than all directors are to be removed, a director may not be removed without cause if
8 the votes cast against the director's removal would be sufficient to elect the director if then
9 cumulatively voted at an election of the entire board of directors, or, if there is more than
10 one class of directors, at an election of the class of directors of which the director is a
11 member; and

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

14 2-408.

15 (a) Unless **[this article or]** the charter or bylaws of the corporation require a
16 greater proportion **OR THIS ARTICLE REQUIRES A DIFFERENT PROPORTION**, the action
17 of a majority of the directors present at a meeting at which a quorum is present is the action
18 of the board of directors.

19 2-418.

20 (e) (1) Indemnification under subsection (b) of this section may not be made
21 by the corporation unless authorized for a specific proceeding after a determination has
22 been made that indemnification of the director is permissible in the circumstances because
23 the director has met the standard of conduct set forth in subsection (b) of this section.

24 (2) Such determination shall be made:

25 (i) By the board of directors by a majority vote of a quorum
26 consisting of directors not, at the time, parties to the proceeding, or **[, if such a quorum
27 cannot be obtained, then]** by a majority vote of a committee of the board consisting solely
28 of one or more directors not, at the time, parties to such proceeding and who were duly
29 designated to act in the matter by a majority vote of the **[entire board of directors in which
30 the designated]** directors who are **NOT** parties **[may participate] TO THE PROCEEDING;**

31 (ii) By special legal counsel selected by the board of directors or a
32 committee of the board by vote as set forth in **[subparagraph] ITEM (i)** of this paragraph,
33 or, if the requisite quorum of the full board cannot be obtained therefor and the committee
34 cannot be established, by a majority vote of the full board in which directors who are parties
35 may participate; or

1 (iii) By the stockholders.

2 (3) Authorization of indemnification and determination as to
3 reasonableness of expenses shall be made in the same manner as the determination that
4 indemnification is permissible. However, if the determination that indemnification is
5 permissible is made by special legal counsel, authorization of indemnification and
6 determination as to reasonableness of expenses shall be made in the manner specified in
7 paragraph (2)(ii) of this subsection for selection of such counsel.

8 (4) Shares held by directors who are parties to the proceeding may not be
9 voted on the subject matter under this subsection.

10 2-513.

11 (a) **UNLESS THE CHARTER OF A CORPORATION PROVIDES OTHERWISE BY**
12 **REFERENCE TO THIS SECTION OR THE SUBJECT MATTER OF THIS SECTION, THIS**
13 **SECTION DOES NOT APPLY, IN WHOLE OR IN PART, TO HOLDERS OF ANY SHARES OR**
14 **ANY CLASS OR SERIES OF STOCK, OTHER THAN COMMON STOCK, THAT IS CLASSIFIED**
15 **OR RECLASSIFIED BY ARTICLES OF SUPPLEMENTARY, OR CREATED BY ARTICLES OF**
16 **INCORPORATION OR AN AMENDMENT TO THE CHARTER, ACCEPTED FOR RECORD BY**
17 **THE DEPARTMENT ON OR AFTER OCTOBER 1, 2020.**

18 (B) One or more persons who together are and for at least [six] 6 months have
19 been stockholders of record or holders of voting trust certificates of at least [5 percent] 5%
20 of the outstanding [stock] SHARES of any class OR SERIES OF STOCK of a corporation may:

21 (1) In person or by agent, on request in writing or by electronic
22 transmission, inspect and copy during usual business hours the corporation's books of
23 account and its stock ledger;

24 (2) Provide to any officer of the corporation, the resident agent of the
25 corporation, or any agent designated by the corporation to maintain corporate documents
26 on the corporation's behalf, a request in writing or by electronic transmission for a
27 statement of its affairs; and

28 (3) In the case of any corporation which does not maintain the original or
29 a duplicate stock ledger at its principal office, provide to any officer of the corporation, the
30 resident agent of the corporation, or any agent designated by the corporation to maintain
31 corporate documents on the corporation's behalf, a request in writing or by electronic
32 transmission for a list of its stockholders.

33 [(b)] (C) Within 20 days after a request for information is made under subsection
34 [(a)] (B) of this section, the corporation shall prepare and have available on file at its
35 principal office or make available by electronic transmission:

1 (1) In the case of a request for a statement of affairs, a statement verified
2 under oath by its president or treasurer or one of its vice-presidents or assistant treasurers
3 which sets forth in reasonable detail the corporation's assets and liabilities as of a
4 reasonably current date; and

5 (2) In the case of a request for a list of stockholders, a list verified under
6 oath by one of its officers or its stock transfer agent or registrar which sets forth the name
7 and address of each stockholder and the number of shares of each class **OR SERIES OF**
8 **STOCK** which the stockholder holds.

9 2-604.

10 (a) This section does not apply to a charter amendment by the board of directors
11 in accordance with § 2-105(a)(13) or § 2-309(e) of this title.

12 (b) **A CHARTER AMENDMENT BY A MARYLAND CORPORATION REGISTERED**
13 **AS AN OPEN-END INVESTMENT COMPANY UNDER THE INVESTMENT COMPANY ACT**
14 **OF 1940 SHALL BE APPROVED BY A MAJORITY OF THE ENTIRE BOARD OF DIRECTORS**
15 **~~OR~~ AND IN THE MANNER AND BY THE VOTE REQUIRED UNDER THE INVESTMENT**
16 **COMPANY ACT OF 1940.**

17 (c) If there is any stock outstanding or subscribed for and entitled to be voted on
18 the charter amendment, it shall be approved as provided in this section.

19 [(c)] (d) Except as provided in § 2-112 of this title **AND SUBSECTION (B) OF**
20 **THIS SECTION**, the board of directors of a corporation proposing a charter amendment
21 shall:

22 (1) Adopt a resolution which sets forth the proposed amendment and
23 declares that it is advisable; and

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

26 [(d)] (e) (1) Notice which states that a purpose of the meeting will be to act
27 on the proposed amendment shall be given by the corporation in the manner required by
28 Subtitle 5 of this title to:

29 (i) Each stockholder entitled to vote on the proposed amendment;
30 and

31 (ii) Each stockholder not entitled to vote on the proposed
32 amendment if the contract rights of his stock, as expressly set forth in the charter, would
33 be altered by the amendment.

34 (2) The notice shall:

1 (i) Include a copy of the amendment or a summary of the changes it
2 will effect; or

3 (ii) 1. Identify a [Web site] **WEBSITE** at which the amendment
4 or a summary of the changes it will effect may be accessed; and

5 2. Include a telephone number or an address where the
6 stockholder may request a paper copy of the amendment or summary without charge.

7 **[(e)] (F) [The] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,**
8 **THE** proposed amendment shall be approved by the stockholders of the corporation by the
9 affirmative vote of two thirds of all the votes entitled to be cast on the matter.

10 3–104.

11 (a) Notwithstanding any other provision of this subtitle, unless the charter or
12 bylaws of a corporation provide otherwise by reference to this section or the subject matter
13 of this section, the approval of the stockholders is not required for any:

14 (1) Transfer of assets by a corporation in the ordinary course of business
15 actually conducted by it or as a distribution as defined in § 2–301 of this article;

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

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

21 (4) Transfer of assets by a corporation registered as an open–end
22 investment company under the Investment Company Act of 1940, **INCLUDING A**
23 **TRANSFER BETWEEN OR AMONG CLASSES OR SERIES OF STOCK OF A CORPORATION;**
24 or

25 (5) Transfer of assets by a corporation that is dissolved.

26 3–105.

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

29 (1) A merger of a [90 percent] **90%** or more owned subsidiary with or into
30 its parent need be approved only in accordance with the provisions of § 3–106 of this
31 subtitle;

1 (2) A merger of a Maryland corporation in accordance with § 3–106.1 of this
2 subtitle need be approved only in the manner provided in § 3–106.1 of this subtitle;

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

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

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

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

12 (i) The merger does not reclassify or change the terms of any class
13 or series of its stock that is outstanding immediately before the merger becomes effective
14 or otherwise amend its charter and the number of its shares of stock of such class or series
15 outstanding immediately after the effective time of the merger does not increase by more
16 than [20 percent] **20%** of the number of its shares of the class or series of stock that is
17 outstanding immediately before the merger becomes effective; or

18 (ii) There is no stock outstanding or subscribed for and entitled to be
19 voted on the merger; [and]

20 (7) A business trust party to a merger shall have the merger advised,
21 authorized, and approved in the manner and by the vote required by its declaration of trust
22 and the laws of the place where it is organized; **AND**

23 **(8) A CONSOLIDATION, MERGER, OR SHARE EXCHANGE ~~NEED~~ SHALL**
24 **BE APPROVED BY A MARYLAND CORPORATION REGISTERED AS AN OPEN-END**
25 **INVESTMENT COMPANY UNDER THE INVESTMENT COMPANY ACT OF 1940 ONLY BY**
26 **A MAJORITY OF ITS THE ENTIRE BOARD OF DIRECTORS ~~OR~~ AND IN THE MANNER AND**
27 **BY THE VOTE REQUIRED UNDER THE INVESTMENT COMPANY ACT OF 1940.**

28 3–109.

29 (d) In addition to the requirements of subsection (b) of this section, articles of
30 merger shall include:

31 (1) **(I)** Any amendment to the charter, certificate of limited partnership,
32 articles of organization [of a limited liability company], or declaration of trust of the
33 successor to be effected as part of the merger; **AND**

1 **(II) THE RESTATEMENT, IF A RESTATEMENT OF THE CHARTER,**
2 **THE CERTIFICATE OF LIMITED PARTNERSHIP, ARTICLES OF ORGANIZATION, OR**
3 **DECLARATION OF TRUST OF THE SUCCESSOR IS TO BE EFFECTED AS A PART OF THE**
4 **MERGER;**

5 (2) As to each corporation party to the articles:

6 (i) The total number of shares of stock of all classes **OR SERIES**
7 which the corporation has authority to issue;

8 (ii) The number of shares of stock of each class **OR SERIES;**

9 (iii) The par value of the shares of stock of each class **OR SERIES** or
10 a statement that the shares are without par value; and

11 (iv) If there are any shares of stock with par value, the aggregate par
12 value of all the shares of all classes **OR SERIES;**

13 (3) As to each business trust party to the articles:

14 (i) The total number of shares of beneficial interest of all classes
15 **AND SERIES** which the business trust has authority to issue; and

16 (ii) The number of shares of beneficial interest of each class **AND**
17 **SERIES;**

18 (4) As to each limited partnership party to the articles:

19 (i) The percentages of partnership interest of each class **OR SERIES**
20 of partnership interest of the limited partnership; and

21 (ii) The class of partners and the respective percentage of
22 partnership interests in each class **OR SERIES** of partnership interest;

23 (5) As to each limited liability company party to the articles:

24 (i) The percentages of membership interest of each class **OR SERIES**
25 of membership interest of the limited liability company; and

26 (ii) The class of members and the respective percentage of
27 membership interests in each class **OR SERIES** of membership interest;

28 (6) As to each partnership party to the articles:

29 (i) The percentages of partnership interest of each class **OR SERIES**
30 of partnership interest of the partnership; and

1 (ii) The class of partners and the respective percentage of
2 partnership interests in each class **OR SERIES** of partnership interest;

3 (7) If the charter, certificate of limited partnership, articles of organization
4 [of a limited liability company], or declaration of trust of the successor is amended in a
5 manner which changes any of the information required by items (2) through (5) of this
6 subsection, that information as it was both immediately before and as changed by the
7 merger; and

8 (8) The manner and basis of converting or exchanging issued **SHARES OF**
9 stock of the merging corporations, outstanding partnership interest of the merging
10 partnership or limited partnership, or shares of beneficial interest of the merging business
11 trusts into different stock of a corporation, partnership interest of a partnership or limited
12 partnership, outstanding membership interest of a limited liability company, shares of
13 beneficial interest of a business trust, or other consideration, and the treatment of any
14 issued **SHARES OF** stock of the merging corporations, partnership interest of the merging
15 partnership or limited partnerships, membership interest of the merging limited liability
16 company, or shares of beneficial interest of the merging business trusts not to be converted
17 or exchanged, any or all of which may be made dependent on facts ascertainable outside
18 the articles of merger.

19 3-403.

20 (a) If there is any stock entitled to be voted on the dissolution either outstanding
21 or subscribed for, the dissolution shall be approved as provided in this section.

22 (b) **A DISSOLUTION OF A MARYLAND CORPORATION REGISTERED AS AN**
23 **OPEN-END INVESTMENT COMPANY UNDER THE INVESTMENT COMPANY ACT OF**
24 **1940 SHALL BE APPROVED BY A MAJORITY OF THE ENTIRE BOARD OF DIRECTORS**
25 **~~OR~~ AND IN THE MANNER AND BY THE VOTE REQUIRED UNDER THE INVESTMENT**
26 **COMPANY ACT OF 1940.**

27 (c) Except as provided in § 2-112 of this article **AND SUBSECTION (B) OF THIS**
28 **SECTION**, a majority of the entire board of directors of a corporation proposing to dissolve
29 shall:

30 (1) Adopt a resolution which declares that dissolution of the corporation is
31 advisable; and

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

34 [(c)] (D) Notice which states that a purpose of the meeting will be to act on the
35 proposed dissolution shall be given by the corporation in the manner required by Title 2 of
36 this article to each stockholder entitled to vote on the proposed dissolution.

1 ~~[(d)]~~ **(E)** ~~[The]~~ **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,**
2 **THE** proposed dissolution shall be approved by the stockholders of the corporation by the
3 affirmative vote of two-thirds of all the votes entitled to be cast on the matter.

4 3-903.

5 (a) In this section, “facts ascertainable outside the articles of conversion” includes:

6 (1) An action or a determination by any person, including:

7 (i) The corporation or other entity, as applicable;

8 (ii) The directors, partners, members, trustees, officers, or other
9 agents of the corporation or other entity; and

10 (iii) Any other person affiliated with the corporation or other entity;

11 and

12 (2) Any other event.

13 (b) Articles of conversion shall be filed for record with the Department.

14 (c) In a conversion of a Maryland corporation to an other entity, the articles of
15 conversion shall set forth:

16 (1) The name of the Maryland corporation and the date of filing of its
17 original articles of incorporation with the Department;

18 (2) The name of the other entity to which the Maryland corporation will be
19 converted and the place of incorporation or organization of the other entity;

20 (3) A statement that the conversion has been approved in accordance with
21 the provisions of this subtitle;

22 (4) The manner and basis of converting or exchanging outstanding shares
23 of stock of the corporation into shares of stock, membership interests, partnership interests,
24 beneficial interests, or other ownership interests of the other entity, or other consideration,
25 and the treatment of any issued shares of stock not to be converted or exchanged, any of
26 which may be made dependent on facts ascertainable outside the articles of conversion;

27 ~~[(5)]~~ The future effective time, which shall be a time certain, of the articles
28 of conversion, if the articles of conversion are not to be effective on the acceptance for record
29 of the articles of conversion;]

30 ~~[(6)]~~ **(5)** If the other entity is not organized under the laws of this State:

1 (i) The location of the principal office in the place where it is
2 organized; and

3 (ii) The name and address of the resident agent in this State; and

4 ~~[(7)]~~ **(6)** Any other provision necessary to effect the conversion.

5 (d) In a conversion of an other entity to a Maryland corporation, the articles of
6 conversion shall set forth:

7 (1) The name of the other entity, the date on which the other entity was
8 first created, and the place of incorporation or organization of the other entity;

9 (2) The name of the Maryland corporation to which the other entity will be
10 converted;

11 (3) A statement that the conversion has been approved in accordance with
12 the provisions of this subtitle;

13 (4) The manner and basis of converting or exchanging any outstanding
14 shares of stock, membership interests, partnership interests, beneficial interests, or other
15 ownership interests of the other entity into shares of stock of the Maryland corporation or
16 other consideration, and the treatment of any outstanding shares of stock, membership
17 interests, partnership interests, beneficial interests, or other ownership interests not to be
18 converted or exchanged, any of which may be made dependent on facts ascertainable
19 outside the articles of conversion; **AND**

20 ~~[(5)~~ The future effective time, which shall be a time certain, of the articles
21 of conversion, if the articles of conversion are not to be effective on the acceptance for record
22 of the articles of conversion; and]

23 ~~[(6)]~~ **(5)** Any other provision necessary to effect the conversion.

24 (e) The articles of conversion may contain a future effective time for the articles
25 of conversion that is not later than 30 days after the articles of conversion are accepted for
26 record.

27 5-202.

28 (a) The charter of each nonstock corporation formed after June 1, 1951, shall
29 provide that the corporation has no authority to issue capital stock.

30 (b) Notwithstanding any other provision of this article, the charter or bylaws of a
31 nonstock corporation may:

32 (1) Divide the directors or members of the corporation into classes;

1 (2) Prescribe the tenure and conditions of [office] SERVICE of its directors,
2 but no class of [director] DIRECTORS may be elected to serve for a period shorter than the
3 interval between annual meetings unless:

4 (i) All or a class of directors must be members; and

5 (ii) Qualifications for membership have the effect of shortening their
6 tenure of [office] SERVICE;

7 (3) Prescribe the rights, privileges, and qualifications of its members;

8 (4) Prescribe the manner of giving notice of any meeting of its members;

9 (5) Provide for the number or proportion of voting members whose presence
10 in person or by proxy constitutes a quorum at any meeting of its members;

11 (6) Provide that any action may be taken or authorized by any number or
12 proportion of the votes of all its members or all its directors entitled to vote;

13 (7) Deny or limit the right of its members to vote by proxy; [and]

14 (8) Provide for the right of members to vote by mail OR BY ELECTRONIC
15 TRANSMISSION on a stated proposal or for the election of directors or any officers who are
16 elected by members;

17 (9) REGULATE THE MANAGEMENT OF THE BUSINESS AND AFFAIRS OF
18 THE CORPORATION; AND

19 (10) REGULATE THE EXERCISE OR ALLOCATION OF VOTING POWER
20 BETWEEN OR AMONG THE DIRECTORS AND MEMBERS.

21 8–101.

22 (a) In this title the following words have the meanings indicated.

23 (E) “SHAREHOLDER” MEANS A PERSON WHO IS A RECORDED HOLDER OF
24 SHARES.

25 8–205.

26 (b) Unless the declaration of trust of the real estate investment trust provides
27 otherwise:

28 (1) If the shareholders of any class or series are entitled separately to elect
29 one or more trustees, a trustee elected by [a] SHAREHOLDERS OF THAT class or series

1 may not be removed without cause except by the affirmative vote of a majority of all the
2 votes of that class or series;

3 (2) If a real estate investment trust has cumulative voting for the election
4 of trustees and less than the entire board is to be removed, a trustee may not be removed
5 without cause if the votes cast against the trustee's removal would be sufficient to elect the
6 trustee if then cumulatively voted at an election of the entire board of trustees, or, if there
7 is more than one class of trustees, at an election of the class of trustees of which the trustee
8 is a member; and

9 (3) If the trustees have been divided into classes, a trustee may not be
10 removed without cause.

11 8-601.1.

12 Sections 2-113, 2-201(c), **2-309(A) AND (E)**, 2-313, 2-502(e), and 2-504(f) of this
13 article and, except as otherwise provided in § 8-601 of this subtitle or in the declaration of
14 trust, § 2-405.1 of this article shall apply to real estate investment trusts.

15 8-703.

16 (a) In this section, "facts ascertainable outside the articles of conversion" includes:

17 (1) An action or a determination by any person, including:

18 (i) The real estate investment trust or other entity, as applicable;

19 (ii) The trustees, directors, partners, members, officers, or other
20 agents of the real estate investment trust or other entity; and

21 (iii) Any other person affiliated with the real estate investment trust
22 or other entity; and

23 (2) Any other event.

24 (b) Articles of conversion shall be filed for record with the Department.

25 (c) In a conversion of a real estate investment trust to an other entity, the articles
26 of conversion shall set forth:

27 (1) The name of the real estate investment trust and the date of filing of
28 the original declaration of trust with the Department;

29 (2) The name of the other entity to which the real estate investment trust
30 will be converted and the place of incorporation or organization of the other entity;

1 (3) A statement that the conversion has been approved in accordance with
2 the provisions of this subtitle;

3 (4) The manner and basis of converting or exchanging issued shares of
4 beneficial interest of the real estate investment trust into shares of stock, membership
5 interests, partnership interests, beneficial interests, or other ownership interests of the
6 other entity, or other consideration, and the treatment of any issued shares of beneficial
7 interest not to be converted or exchanged, any of which may be made dependent on facts
8 ascertainable outside the articles of conversion;

9 [(5) The future effective time, which shall be a time certain, of the articles
10 of conversion, if the articles of conversion are not to be effective on the acceptance for record
11 of the articles of conversion;]

12 [(6)] (5) If the other entity is not organized under the laws of this State:

13 (i) The location of the principal office in the place where it is
14 organized; and

15 (ii) The name and address of the resident agent in this State; and

16 [(7)] (6) Any other provision necessary to effect the conversion.

17 (d) In a conversion of an other entity to a real estate investment trust, the articles
18 of conversion shall set forth:

19 (1) The name of the other entity, the date on which the other entity was
20 first created, and the place of incorporation or organization of the other entity;

21 (2) The name of the real estate investment trust to which the other entity
22 will be converted;

23 (3) A statement that the conversion has been approved in accordance with
24 the provisions of this subtitle;

25 (4) The manner and basis of converting or exchanging any outstanding
26 shares of stock, membership interests, partnership interests, beneficial interests, or other
27 ownership interests of the other entity into shares of beneficial interest of the real estate
28 investment trust, or other consideration, and the treatment of any outstanding shares of
29 stock, membership interests, partnership interests, beneficial interests, or other ownership
30 interests not to be converted or exchanged, any of which may be made dependent on facts
31 ascertainable outside the articles of conversion; **AND**

32 [(5) The future effective time, which shall be a time certain, of the articles
33 of conversion, if the articles of conversion are not to be effective on the acceptance for record
34 of the articles of conversion; and]

1 ~~[(6)]~~ (5) Any other provision necessary to effect the conversion.

2 (e) The articles of conversion may contain a future effective time of the articles of
3 conversion that is not later than 30 days after the articles of conversion are accepted for
4 record.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2020.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.