

# SENATE BILL 469

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CF HB 668

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By: **Senators West and Waldstreicher**

Introduced and read first time: January 29, 2020

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 29, 2020

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## 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)

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### 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.**

32 2–406.

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:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.