

SENATE BILL 992

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5lr2624
CF HB 1171

By: **Senators West and Waldstreicher**

Introduced and read first time: February 1, 2025

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Corporations and Associations – Revisions**

3 FOR the purpose of establishing a process for the transfer of assets that are collateral for
4 securing a mortgage, pledge, or security interest without the approval of the
5 stockholders; establishing certain exceptions to the process for the transfer of assets
6 that are secured collateral without the approval of the stockholders; repealing
7 provisions of law specifying what shall be included in the articles of merger if a
8 limited partnership, limited liability company, or partnership is a party to the
9 articles; and generally relating to corporations and associations.

10 BY repealing and reenacting, with amendments,
11 Article – Corporations and Associations
12 Section 2–411(e), 3–104, and 3–109(d)
13 Annotated Code of Maryland
14 (2014 Replacement Volume and 2024 Supplement)

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

17 **Article – Corporations and Associations**

18 2–411.

19 (e) Notwithstanding subsection (a) of this section or [~~§ 2–408(d)~~] **§ 2–408(E)** of
20 this subtitle, the charter or bylaws of a corporation, or any agreement to which the
21 corporation is a party and which has been approved by the board of directors, may provide
22 for:

23 (1) The establishment of one or more standing committees or for the
24 creation of one or more committees upon the occurrence of certain events; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) The composition of the membership, and the qualifications and the
2 voting and other rights of members of any such committee, subject to the continued service
3 of members of the committee as directors.

4 3–104.

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

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

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

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

15 (4) Transfer of assets by a corporation registered as an open–end
16 investment company under the Investment Company Act of 1940, including a transfer
17 between or among classes or series of stock of a corporation; or

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

19 (b) Notwithstanding any other provisions of this subtitle, unless the charter or
20 bylaws of a corporation provide otherwise by reference to this section or the subject matter
21 of this section, the approval of the stockholders and articles of share exchange are not
22 required for an exchange of shares of stock through voluntary action or under an agreement
23 with the stockholders participating in the exchange.

24 (c) **NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, UNLESS**
25 **THE CHARTER OR BYLAWS OF A CORPORATION PROVIDE OTHERWISE BY REFERENCE**
26 **TO THIS SECTION OR THE SUBJECT MATTER OF THIS SECTION, THE APPROVAL OF**
27 **THE STOCKHOLDERS IS NOT REQUIRED FOR A TRANSFER OF ASSETS THAT IS**
28 **COLLATERAL FOR SECURING A MORTGAGE, PLEDGE, OR SECURITY INTEREST IF:**

29 **(1) THE MORTGAGEE, PLEDGEE, OR SECURED PARTY EXERCISES ITS**
30 **RIGHTS UNDER:**

31 **(I) TITLE 9 OF THE MARYLAND UNIFORM COMMERCIAL CODE;**

32 **(II) THE REAL PROPERTY ARTICLE; OR**

1 (III) OTHER APPLICABLE LAW TO EFFECT THE TRANSFER OF
2 ASSETS WITHOUT THE CONSENT OF THE CORPORATION; OR

3 (2) THE BOARD OF DIRECTORS OF THE CORPORATION AUTHORIZES
4 AN ALTERNATIVE SALE OF ASSETS WITH THE MORTGAGEE, THE PLEDGEE, A
5 SECURED PARTY, OR ANOTHER PERSON:

6 (I) THAT RESULTS IN THE REDUCTION OR ELIMINATION OF
7 THE LIABILITIES OR OBLIGATIONS SECURED BY THE ASSETS; AND

8 (II) FOR WHICH THE VALUE OF THE ASSETS IS LESS THAN OR
9 EQUAL TO THE AMOUNT OF THE LIABILITIES OR OBLIGATIONS BEING REDUCED OR
10 ELIMINATED.

11 (D) THE RECEIPT OF CONSIDERATION BY THE CORPORATION OR ITS
12 STOCKHOLDERS IN AN ALTERNATIVE SALE OF ASSETS IN ACCORDANCE WITH
13 SUBSECTION (C)(2) OF THIS SECTION MAY NOT CREATE A PRESUMPTION THAT THE
14 VALUE OF THE ASSETS IS GREATER THAN THE AMOUNT OF LIABILITIES OR
15 OBLIGATIONS BEING ELIMINATED OR REDUCED FOR THE PURPOSES OF THIS
16 SECTION.

17 (E) (1) THIS SUBSECTION DOES NOT APPLY TO ANY PROCEEDING
18 AGAINST A CORPORATION AND ANOTHER NECESSARY PARTY TO ENJOIN A SALE
19 BEFORE THE SALE IS COMPLETED.

20 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, FAILURE TO
21 SATISFY SUBSECTION (C)(2)(II) OF THIS SECTION MAY NOT INVALIDATE A SALE IF
22 THE TRANSFEREE OF THE ASSETS:

23 (I) PROVIDED VALUE FOR THE ASSETS, INCLUDING THE
24 REDUCTION OR ELIMINATION OF THE LIABILITIES OR OBLIGATIONS SECURED BY
25 THE ASSETS; AND

26 (II) ACTED IN GOOD FAITH.

27 (3) PARAGRAPH (2) OF THIS SUBSECTION MAY NOT BE INTERPRETED
28 TO ELIMINATE ANY LIABILITY FOR MONETARY DAMAGES ARISING FROM:

29 (I) A CLAIM THAT THE DIRECTOR DID NOT SATISFY THE
30 STANDARD OF CONDUCT FOR DIRECTORS UNDER § 2-405.1(C) OF THIS ARTICLE,
31 INCLUDING A CLAIM BY OR IN THE RIGHT OF THE CORPORATION; OR

32 (II) A CLAIM FOR EQUITABLE RELIEF.

1 **[(c)] (F)** A transaction described in subsection (a) **[or], (b), OR (C)** of this section
2 also may be effected as otherwise provided in this subtitle.

3 3–109.

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

6 (1) (i) Any amendment to the charter, certificate of limited partnership,
7 articles of organization, or declaration of trust of the successor to be effected as part of the
8 merger; and

9 (ii) The restatement, if a restatement of the charter, the certificate
10 of limited partnership, articles of organization, or declaration of trust of the successor is to
11 be effected as a part of the merger;

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

13 (i) The total number of shares of stock of all classes or series which
14 the corporation has authority to issue;

15 (ii) The number of shares of stock of each class or series;

16 (iii) The par value of the shares of stock of each class or series or a
17 statement that the shares are without par value; and

18 (iv) If there are any shares of stock with par value, the aggregate par
19 value of all the shares of all classes or series;

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

21 (i) The total number of shares of beneficial interest of all classes and
22 series which the business trust has authority to issue; and

23 (ii) The number of shares of beneficial interest of each class and
24 series;

25 (4) **[As to each limited partnership party to the articles:**

26 (i) The percentages of partnership interest of each class or series of
27 partnership interest of the limited partnership; and

28 (ii) The class of partners and the respective percentage of
29 partnership interests in each class or series of partnership interest;

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

1 (i) The percentages of membership interest of each class or series of
2 membership interest of the limited liability company; and

3 (ii) The class of members and the respective percentage of
4 membership interests in each class or series of membership interest;

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

6 (i) The percentages of partnership interest of each class or series of
7 partnership interest of the partnership; and

8 (ii) The class of partners and the respective percentage of
9 partnership interests in each class or series of partnership interest;

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

15 [(8)] (5) The manner and basis of converting or exchanging issued shares
16 of stock of the merging corporations, outstanding partnership interest of the merging
17 partnership or limited partnership, or shares of beneficial interest of the merging business
18 trusts into different stock of a corporation, partnership interest of a partnership or limited
19 partnership, outstanding membership interest of a limited liability company, shares of
20 beneficial interest of a business trust, or other consideration, and the treatment of any
21 issued shares of stock of the merging corporations, partnership interest of the merging
22 partnership or limited partnerships, membership interest of the merging limited liability
23 company, or shares of beneficial interest of the merging business trusts not to be converted
24 or exchanged, any or all of which may be made dependent on facts ascertainable outside
25 the articles of merger.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2025.