

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

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 8, 2025

CHAPTER _____

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.

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

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

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

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 transfer
23 between or among classes or series of stock of a corporation; or

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

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

30 **(C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, UNLESS**
31 **THE CHARTER OR BYLAWS OF A CORPORATION PROVIDE OTHERWISE BY REFERENCE**
32 **TO THIS SECTION OR THE SUBJECT MATTER OF THIS SECTION, THE APPROVAL OF**
33 **THE STOCKHOLDERS IS NOT REQUIRED FOR A TRANSFER OF ASSETS THAT IS**
34 **COLLATERAL FOR SECURING A MORTGAGE, PLEDGE, OR SECURITY INTEREST IF:**

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

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

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

5 **(III) OTHER APPLICABLE LAW TO EFFECT THE TRANSFER OF**
6 **ASSETS WITHOUT THE CONSENT OF THE CORPORATION; OR**

7 **(2) THE BOARD OF DIRECTORS OF THE CORPORATION AUTHORIZES**
8 **AN ALTERNATIVE SALE OF ASSETS WITH THE MORTGAGEE, THE PLEDGEE, A**
9 **SECURED PARTY, OR ANOTHER PERSON:**

10 **(I) THAT RESULTS IN THE REDUCTION OR ELIMINATION OF**
11 **THE LIABILITIES OR OBLIGATIONS SECURED BY THE ASSETS; AND**

12 **(II) FOR WHICH THE VALUE OF THE ASSETS IS LESS THAN OR**
13 **EQUAL TO THE AMOUNT OF THE LIABILITIES OR OBLIGATIONS BEING REDUCED OR**
14 **ELIMINATED.**

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

21 **(E) (1) THIS SUBSECTION DOES NOT APPLY TO ANY PROCEEDING**
22 **AGAINST A CORPORATION AND ANOTHER NECESSARY PARTY TO ENJOIN A SALE**
23 **BEFORE THE SALE IS COMPLETED.**

24 **(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, FAILURE TO**
25 **SATISFY SUBSECTION (C)(2)(II) OF THIS SECTION MAY NOT INVALIDATE A SALE IF**
26 **THE TRANSFEREE OF THE ASSETS:**

27 **(I) PROVIDED VALUE FOR THE ASSETS, INCLUDING THE**
28 **REDUCTION OR ELIMINATION OF THE LIABILITIES OR OBLIGATIONS SECURED BY**
29 **THE ASSETS; AND**

30 **(II) ACTED IN GOOD FAITH.**

1 **(3) PARAGRAPH (2) OF THIS SUBSECTION MAY NOT BE INTERPRETED**
2 **TO ELIMINATE ANY ~~LIABILITY FOR MONETARY DAMAGES ARISING FROM CLAIM,~~**
3 **INCLUDING:**

4 **(I) A CLAIM ~~THAT THE~~ FOR MONETARY DAMAGES ARISING**
5 **FROM THE DIRECTOR ~~DID NOT~~ FAILING TO SATISFY THE STANDARD OF CONDUCT**
6 **FOR DIRECTORS UNDER § 2-405.1(C) OF THIS ARTICLE, INCLUDING A CLAIM BY OR**
7 **IN THE RIGHT OF THE CORPORATION; OR**

8 **(II) A CLAIM FOR EQUITABLE RELIEF.**

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

11 3-109.

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

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

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

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

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

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

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

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

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

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

1 (ii) The number of shares of beneficial interest of each class and
2 series;

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

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

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

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

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

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

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

14 (i) The percentages of partnership interest of each class or series of
15 partnership interest of the partnership; and

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

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

23 [(8) (5) The manner and basis of converting or exchanging issued shares
24 of stock of the merging corporations, outstanding partnership interest of the merging
25 partnership or limited partnership, or shares of beneficial interest of the merging business
26 trusts into different stock of a corporation, partnership interest of a partnership or limited
27 partnership, outstanding membership interest of a limited liability company, shares of
28 beneficial interest of a business trust, or other consideration, and the treatment of any
29 issued shares of stock of the merging corporations, partnership interest of the merging
30 partnership or limited partnerships, membership interest of the merging limited liability
31 company, or shares of beneficial interest of the merging business trusts not to be converted
32 or exchanged, any or all of which may be made dependent on facts ascertainable outside
33 the articles of merger.

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