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**TESTIMONY IN SUPPORT WITH AMENDMENT OF HB996
CORPORATIONS AND ASSOCIATIONS –
RATIFICATIONS OF DEFECTIVE CORPORATE ACTS REVISIONS**

Economic Matters Committee
February 23, 2022

Chair Wilson, Vice-Chair Crosby and Members of the Committee,

Thank you for the opportunity to testify before you on HB996, Corporations and Associations – Ratification of Defective Corporate Acts.

On occasion, corporations, particularly newly formed corporations, rush to get underway without seeking sound legal advice and without addressing requirements under the Maryland General Corporation Law (MGCL) for organizing the corporation, issuing shares of stock, and authorizing corporate acts. And, on occasion, when lawyers are hired, errors are made.

These “defective corporate acts” include:

- failing to adopt bylaws;
- failing to elect a president, a treasurer, and a secretary, all of which are required for a corporation to be “organized”;
- issuing shares of stock in excess of the authorized number of shares or without required board of directors resolutions;
- failing to seek stockholder approval for an act that – under the MGCL or the corporate charter – requires stockholder approval;
- a board of directors approving an act at a meeting where a quorum was not present; or
- taking an act without filing articles of amendment, articles of merger, or other articles that were required.

Presently, corporations and lawyers, upon discovering a defective corporate act, may face challenges to fix the problem. Ratifying or curing a defective corporate act may require a settlement agreement, waivers from impacted parties, a rescission offering, or re-doing a transaction. The Maryland General Corporation Law, in Sections 2-208(e) and 2-208.1(e), provides a solution if shares of preferred stock are issued before Articles

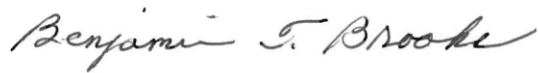
Supplementary are filed, but the MGCL does not otherwise provide any statutory path to ratify a defective corporate act.

The MSBA Committee on Corporation Law, looking to the Model Business Corporation Act and the Delaware General Corporation Law, has developed legislation that would provide a statutory safe harbor for the ratification of a defective corporate act. The existing common law cures would remain available, but HB996 would provide a clear set of rules for ratification. HB996 establishes the step-by-step requirements and provides for a new charter filing, Articles of Validation, which would be filed when a prior charter filing was defective or if the required charter filing was never filed.

With input from the MSBA Committee on Corporation Law, as amended, HB996 will be more in line with the Model Business Corporation Act and the MSBA's original proposal.

For these reasons, I am requesting a favorable report.

With kindest regards,

A handwritten signature in cursive script that reads "Benjamin T. Brooks".

Benjamin Brooks