

No. 1990-198

## AN ACT

SB 1761

Amending Titles 13 (Commercial Code), 15 (Corporations and Unincorporated Associations), 17 (Reserved), 20 (Decedents, Estates and Fiduciaries), 22 (Detectives and Private Police), 24 (Education), 42 (Judiciary and Judicial Procedure), 54 (Names) and 69 (Savings and Validating Provisions) of the Pennsylvania Consolidated Statutes, relating to associations; codifying and correcting the law relating to credit unions; providing for the incorporation and regulation of insurance companies; making revisions, corrections and additions relating to other associations; further providing for the fees of the Department of State and certain filing officers; and making repeals.

## TABLE OF CONTENTS

## DIVISION I. AMENDMENT OF TITLE 15

- Section 101. Short title.
- Section 102. Repeal and amendment of Title 15.

## DIVISION II. INSURANCE CORPORATIONS

- Section 201. Definition of term "insurance corporation."
- Section 202. Corporate powers.
- Section 203. Authorization to do business.
- Section 204. Amendment of articles.
- Section 205. Other fundamental transactions.
- Section 206. Increases in capital stock.
- Section 207. Administrative procedure.
- Section 208. Existing powers preserved.

## DIVISION III. CONFORMING AMENDMENTS

- Section 301. Amendment of Title 13.
- Section 302. Enactment of Title 17.
- Section 303. Amendment of Title 20.
- Section 304. Amendment of Title 22.
- Section 305. Amendment of Title 24.
- Section 306. Amendment of Title 42.
- Section 307. Amendment of Title 54.
- Section 308. Amendment of Title 69.
- Section 309. Conforming cross references in unconsolidated statutes.

## DIVISION IV. MISCELLANEOUS PROVISIONS

- Section 401. Repeals.
- Section 402. Preparation of act for printing.
- Section 403. Transitional provision.
- Section 404. Effective dates and applicability.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

DIVISION I  
AMENDMENT OF TITLE 15

Section 101. Short title.

This act shall be known and may be cited as the GAA Amendments Act of 1990.

Section 102. Repeal and amendment of Title 15.

Subchapter B of Chapter 5, sections 1721, 1732(c) and 1770, Chapter 27, sections 5303, 5305, 5702.1, 5721, 5974.1 and 5974.2 and Chapters 73 and 75 of Title 15 of the Pennsylvania Consolidated Statutes are repealed. As much of Title 15, amended April 27, 1990 (P.L.129, No.36), as is hereinafter set forth is amended or added, and as much of Subpart C of Part II as is hereinafter set forth is reenacted, to read:

§ 102. Definitions.

Subject to additional or inconsistent definitions contained in subsequent provisions of this title that are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

\* \* \*

**“Association.”** A corporation, a partnership or two or more persons associated in a common enterprise or undertaking. *The term does not include a testamentary trust or an inter vivos trust as defined in 20 Pa.C.S. § 711(3) (relating to mandatory exercise of jurisdiction through orphans’ court division in general).*

\* \* \*

**“Corporation for profit.”** *A corporation incorporated for a purpose or purposes involving pecuniary profit, incidental or otherwise, to its shareholders or members.*

**“Corporation not-for-profit.”** *A corporation not incorporated for a purpose or purposes involving pecuniary profit, incidental or otherwise.*

\* \* \*

**“Credit union.”** A credit union as defined in [section 1103] 17 Pa.C.S. § 102 (relating to application of title).

\* \* \*

**“Electing partnership.”** *An electing partnership as defined in section 8701(c) (relating to scope and definition).*

\* \* \*

**“Insurance corporation.”** An insurance corporation as defined in section [1103] 3102 (relating to definitions).

**“Representative.”** *A representative as defined in section 1103 (relating to definitions).*

\* \* \*

§ 105. Fees.

(a) *General rule.*—*The Department of State shall be entitled to receive for services performed, as required by this title and other applicable provisions of law, such fees as are specified in or pursuant to Subchapter C (relating to Corporation Bureau and UCC fees).*

(b) *Other services.*—*Any other department, board, commission or officer of this Commonwealth shall be entitled to receive for services performed, as required by this title, such fees as are or may be lawfully charged for those or similar services.*

§ 109. Name of commercial registered office provider in lieu of registered address.

\* \* \*

(c) *Change or withdrawal.*—*A representing association that has effected a filing in the department under subsection (b) may:*

(1) *Amend the filing by filing in the department a superseding statement of address of commercial registered office.*

(2) *Withdraw its filing under subsection (b) and cease to provide registered office service by filing in the department a statement of [address] termination of commercial registered office setting forth[, in lieu of the information required by subsection (b)(3) and (4), a statement that it has ceased to be in the business of maintaining registered offices in this Commonwealth for corporations and other associations and the statements required by section 108 (relating to change in location or status of registered office provided by agent).]:*

(i) *The name of the representing association.*

(ii) *A statement that it has ceased to be in the business of maintaining registered offices in this Commonwealth for corporations and other associations.*

(d) *Action by and notice to association.*—*It is not necessary for an association represented to take any action in connection with a change or withdrawal effected under subsection (c), but a representing association that has effected a filing under subsection (c) [shall promptly furnish each affected association represented with a copy of the filing. If the status of an agent as a provider of a registered office is terminated under this section, the location of the registered office of the association represented shall not be affected, but the person formerly in care of the office shall thereafter not have any responsibility with respect to matters tendered to the office in the name of the association represented.] (other than to reflect a change in the information required by subsection (b)(2)) shall promptly file a statement of change of registered office by agent under section 108 (relating to change in location or status of registered office provided by agent) with respect to each association represented.*

§ 131. Application of subchapter.

As used in this subchapter, the term "this title" includes [Title] *Titles 17 (relating to credit unions) and 54 (relating to names) and any other provision of law that makes reference to the powers and procedures of this subchapter.*

§ 133. Powers of Department of State.

(a) General rule.—The Department of State shall have the power and authority reasonably necessary to enable it to administer this subchapter efficiently and to perform the functions specified in section 132 (relating to functions of Department of State)[.], *in 13 Pa.C.S. (relating to commercial code) and in 17 Pa.C.S. (relating to credit unions). The following shall not be agency regulations for the purposes of section 612 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, or any similar provision of law, but shall be subject to the opportunity of public comment requirement under section 201 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law:*

(1) *Sample filing forms promulgated by the department under subsection (d).*

(2) *Instructions accompanying sample filing forms and other explanatory material published in the Pennsylvania Code that is intended to substantially track applicable statutory provisions relating to the particular filing or to any of the functions of the department covered by this subsection, if a regulation of the department expressly states that such instructions or explanatory materials shall not have the force of law.*

\* \* \*

§ 134. Docketing statement.

(a) General rule.—The Department of State may prescribe by regulation one or more official docketing statement forms designed to elicit from a person effecting a filing under this title information that the department has found to be necessary or desirable in connection with the processing of a filing. A docketing statement submitted with the articles of incorporation or division of a proposed domestic corporation for profit or not-for-profit, the articles of domestication or application for a certificate of authority of a foreign corporation for profit or not-for-profit or the certificate of election of an electing partnership shall set forth, inter alia, the kind or kinds of business in which the association actually intends to engage in this Commonwealth within one year of the [execution] *submission* of the docketing statement. A docketing statement submitted with articles of incorporation, consolidation or division of a domestic corporation not-for-profit or an application for a certificate of authority of a foreign corporation not-for-profit shall set forth with respect to the new corporation or corporations resulting therefrom, inter alia, the statute by or under which it was incorporated, the date of incorporation, the names and residence addresses of its chief executive officer, secretary and treasurer, regardless of the names or titles by which they may be designated, the address of its principal place of business and the amount, if any, of its authorized and issued capital stock. A form of docketing statement prescribed under this subsection:

(1) Shall be published in the Pennsylvania Code.

(2) Shall not be integrated into a single document covering the requirements of the filing and its related docketing statement.

(3) May be required by the department in connection with a filing only if notice of the requirement appears on the official format for the filing prescribed under section 133(d) (relating to physical characteristics and copies of documents).

(4) Shall not be required to be submitted on department-furnished forms.

(5) Shall not constitute a document filed in, with or by the department for the purposes of this title or any other provision of law except 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

\* \* \*

§ 135. Requirements to be met by filed documents.

(a) General rule.—A document shall be accepted for filing by the Department of State if it satisfies the following requirements:

\* \* \*

*(7) It is executed. The department shall not examine a document to determine whether the document has been executed by an authorized person or by sufficient authorized persons or otherwise is duly executed. A document shall be deemed executed if it contains a facsimile signature, so long as the operative portions of the document meet any applicable requirements prescribed under section 133(d) (relating to physical characteristics and copies of documents).*

\* \* \*

(c) Addresses.—

*(1) Whenever any provision of this title [or of Title 54 (relating to names)] requires that any person set forth an address in any document, such provision shall be construed to require the submission of an actual street address or rural route box number, and the department shall refuse to receive or file any document that sets forth only a post office box address.*

*(2) Whenever any provision of this title requires the statement of a registered office address in any document filed in the department, such provision shall be construed to require the statement also of the county in which the registered office address is located.*

*(d) Method of filing.—The department may prescribe by regulation procedures for filing documents by electronic mail, facsimile transmission, telex or other similar means of communication.*

§ 136. Processing of documents by Department of State.

(a) Filing of documents.—If a document conforms to section 135 (relating to requirements to be met by filed documents) the Department of State shall forthwith [or on such date as is requested by the person delivering the document, whichever is later,] file the document, certify that the document has been filed by endorsing upon the document the fact and date of filing, make and retain a copy thereof and return the document or a copy thereof so endorsed to or upon the order of the person who delivered the document to the department.

## (b) Immediate certified copy.—

(1) If a duplicate copy, which may be either a signed or conformed copy, of any articles or other document authorized or required by this title to be filed in the department is delivered to the department with the original signed document, the department shall compare the duplicate copy with the original signed document and, if it finds that they are identical, shall certify the duplicate copy by making upon it the same endorsement that is required to appear upon the original, together with a further endorsement that the duplicate copy is a true copy of the original signed document, and return the duplicate copy to the person who delivered it to the department.

(2) If the duplicate copy is delivered by hand to the office of the department at the seat of government at least four hours before the close of business on any day not a holiday and relates to a matter other than a label or other mark requiring examination under Title 54 (relating to names), *and in the case of a document that creates a new association or effects or reflects a change in name is accompanied by evidence that the proposed name has been reserved by or on behalf of the applicant*, the department before the close of business on that day shall either:

(i) Certify the duplicate copy as required by this subsection and make such certified copy available at the office of the department to or upon the order of the person who delivered it to the department.

(ii) Make available at the office of the department to or upon the order of the person who delivered it to the department a brief statement in writing of the reasons of the department for refusing to certify such duplicate copy.

*See section 153(a)(10) (relating to certification fees).*

[2] (3) In lieu of comparing the duplicate copy with the original signed document as provided in [paragraph (1)] *paragraphs (1) and (2)*, the department may make a copy of the original signed document at the cost of the person who delivered it to the department.

\* \* \*

**§ 140. Custody and management of orphan corporate and business records.**

(a) *General rule.*—*Any orphan corporate and business record under the custody or control of a county, including the City and County of Philadelphia, may become a Commonwealth record in the manner provided in this section. The Department of State, with the concurrence of the county records committee existing under the act of August 14, 1963 (P.L.839, No.407), may provide for the transfer on a progressive and phased basis to the custody and management of the department of any or all orphan corporate and business records. To the extent feasible, such records shall be integrated with records of the department relating to the same type of matters or transactions.*

(b) *Procedure.*—*The transfer contemplated by subsection (a) shall be effected on a basis consistent with the availability of appropriations. It is the intention of this section to encourage the department to schedule work under*

*this section on a seasonal or otherwise intermittent basis in order to facilitate the smoothing of the workload of the department. The department may classify orphan corporate and business records for purposes of priority of transfer by county of origin, type of matter or transaction, vintage of matter or transaction, or on any other basis or combination of bases which the department may deem to be appropriate. The department shall publish and update in the Pennsylvania Code a schedule, by county and type of matter or transaction, setting forth where, as between a county and the department, custody of all orphan corporate and business records then resides.*

*(c) Fictitious name records.—The following statutes provided for duplicate filing of fictitious name registrations in both the department and in the office of the clerk of the court of common pleas or an equivalent row office in a home rule charter county:*

*(1) Act of June 28, 1917 (P.L.645, No.227), relating to individual fictitious names.*

*(2) Act of May 24, 1945 (P.L.967, No.380), referred to as the Fictitious Names Act.*

*(3) Act of July 11, 1957 (P.L.783, No.374), known as the Fictitious Corporate Name Act.*

*The county records committee may provide for the destruction of such duplicate records without transfer to the custody of the department.*

*(d) Definition.—As used in this section, the term “orphan corporate and business records” means corporate and limited partnership filings and recordings which were formerly effected in the office of the clerk of the court of common pleas or the office for the recording of deeds or an equivalent row office in a home rule charter county and which are no longer effected in such offices by reason of the enactment of:*

*(1) The act of December 19, 1990 (P.L.834, No.198), known as the GAA Amendments Act of 1990, with respect to insurance corporations, including corporations incorporated under or subject to the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, or incorporated under the acts of: April 28, 1903 (P.L.329, No.259); April 20, 1927 (P.L.317, No.190); June 24, 1939 (P.L.686, No.320); June 20, 1947 (P.L.687, No.298); June 28, 1951 (P.L.941, No.184); or July 15, 1957 (P.L.929, No.401); or any similar act relating to the incorporation or reincorporation of limited life insurance companies.*

*(2) The act of December 21, 1988 (P.L.1444, No.177), known as the General Association Act of 1988, with respect to certain:*

*(i) cooperative corporations incorporated under or subject to the act of June 7, 1887 (P.L.365, No.252), referred to as the Cooperative Association Act; and*

*(ii) public utility corporations, including corporations incorporated under or subject to the act of April 4, 1868 (P.L.62, No.29), referred to as the General Railroad Law; the act of April 29, 1874 (P.L.73, No.32), known as the Corporation Act of 1874; or the act of May 29, 1885 (P.L.29, No.32), referred to as the Natural Gas Company Act of 1885.*

(3) *The act of December 19, 1975 (P.L.524, No.155), with respect to certain limited partnerships, including limited partnerships formed under the act of April 12, 1917 (P.L.55, No.37), known as The Uniform Limited Partnership Act, or the act of March 21, 1836 (P.L.143, No.51), referred to as the Limited Partnerships Act of 1836.*

(4) *The act of November 15, 1972 (P.L.1063, No.271), with respect to nonprofit corporations incorporated under or subject to the act of May 5, 1933 (P.L.289, No.105), known as the Nonprofit Corporation Law of 1933, including corporations of the first class incorporated under or subject to the Corporation Act of 1874.*

(5) *Any similar act providing for the central filing in the department of a document of a type previously filed or recorded solely on a county or other decentralized basis.*

### SUBCHAPTER C CORPORATION BUREAU AND UCC FEES

Sec.

- 151. Short title and application of subchapter.
- 152. Definitions.
- 153. Fee schedule.
- 154. Enforcement and collection.
- 155. Disposition of funds.

§ 151. Short title and application of subchapter.

(a) Short title.—This subchapter shall be known and may be cited as the Corporation Bureau and UCC Fee Law.

(b) Application.—This subchapter contains an enumeration of fees to be charged by the Corporation Bureau of the Department of State for services performed under this title or any other provision of law relating to corporations or associations and under Titles 13 (relating to commercial code), 17 (relating to credit unions) and 54 (relating to names), and, except as otherwise provided by law, by local filing officers under Title 13.

§ 152. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Ancillary transaction.” Includes preclearance of document, amendment of articles, charter, certificate or other organic document, restatement of articles, charter, certificate or other organic document, change in registered or principal office, change in share structure, dissolution, cancellation or termination, reorganization, withdrawal by foreign association, withdrawal by a partner, or any similar transaction, or the deposit in the Department of State for filing in, by or with the Department of State or the Secretary of the Commonwealth of any articles, statements, proceedings, agreements or any like papers affecting associations under the statutes of this Commonwealth.



“Bureau.” The Corporation Bureau of the Department of State or any successor agency within the department.

§ 153. Fee schedule.

(a) General rule.—The fees of the Corporation Bureau of the Department of State, including fees for the public acts and transactions of the Secretary of the Commonwealth administered through the bureau, and, except as otherwise provided by law, of filing officers under Title 13 (relating to commercial code), shall be as follows:

(1) Domestic corporations:

(i) Articles of incorporation, letters patent or like instrument incorporating a corporation or association.	\$ 100
(ii) Articles or agreement or like instrument of merger, consolidation or division.....	52
(iii) Additional fee for each association which is a party to a merger or consolidation.....	28
(iv) Additional fee for each new corporation resulting from a division.....	100
(v) Articles of conversion or like instrument.....	52
(vi) Each ancillary transaction.....	52

(2) Foreign corporations:

(i) Certificates of authority or like qualification to do business.....	180
(ii) Amended certificate of authority or like change in qualification to do business.....	180
(iii) Domestication.....	100
(iv) Statement of merger or consolidation or like instrument reporting occurrence of merger or consolidation not effected by a filing in the department.....	52
(v) Additional fee for each qualified foreign corporation which is named in a statement of merger or consolidation or like instrument.....	28
(vi) Each ancillary transaction.....	52

(3) Partnerships:

(i) Certificate of limited partnership or like instrument forming a limited partnership.....	100
(ii) Certificate of merger or consolidation.....	52
(iii) Additional fee for each association which is a party to the merger or consolidation.....	28
(iv) Application for registration of foreign limited partnership.....	180
(v) Certificate of amendment of registration of foreign limited partnership.....	180
(vi) Statement of election as an electing partnership.....	100
(vii) Each ancillary transaction.....	52

(4) Business trusts:

(i) Deed of trust or other initial instrument for a business trust.....	100
(ii) Each ancillary transaction.....	52
(5) Fictitious names:	
(i) Registration.....	52
(ii) Each ancillary transaction.....	52
(6) Service of process:	
(i) Each defendant named or served.....	52
(7) Trademarks, emblems, union labels, description of bottles and like matters:	
(i) Registration.....	52
(ii) Each ancillary transaction.....	52
(8) Uniform Commercial Code:	
(i) Financing statement - per debtor name.....	12
(ii) Each ancillary transaction.....	12
(iii) Search - per debtor name.....	12
(iv) Additional fee for each financing statement found and for each statement of assignment reported therein.....	1
(v) For each financing statement or ancillary transaction not filed on standard forms approved by the Department of State, a fee of \$28 per filing shall be charged in addition to the fee provided above.	
(9) Copy fees (including copies furnished by filing officers under the Uniform Commercial Code):	
(i) Each page of photocopy furnished.....	2
(10) Certification fees:	
(i) For certifying copies of any document or paper on file, the fee specified in paragraph (9), if the department furnished the copy, plus.....	28
(ii) For certifying a duplicate copy of a document pursuant to section 136(b)(2) (relating to immediate certified copy).....	52
(iii) For issuing any other certificate of the Secretary of the Commonwealth or the Department of State (other than an engrossed certificate).....	28
(11) Report of record search (other than search under paragraph (8)):	
(i) For preparing and providing a written or photocopy, or both, report of a record search, the fee specified in paragraph (9), if any, plus.....	12
(12) Reservation and registration of names:	
(i) Reservation of association name.....	52
(ii) Registration of foreign or other corporation name.....	52
(13) Change of registered office by agent:	

- |   |       |
|---|-------|
| (i) Each statement of change of registered office<br>by agent.....  | 4     |
| (14) Contingent domestication:  |       |
| (i) Statement of contingent domestication.....  | 100   |
| (ii) Each year, or portion thereof, during which a<br>contingent domestication or temporary domiciliary<br>status is in effect..... | 1,200 |
- (b) **Daily listings.**—The bureau may provide listings or copies of microfilm, or both, of complete daily filings of any class of documents or papers for a fee of 25¢ per filing listed or set forth therein.
- (c) **Other services.**—The bureau may charge equivalent fees for any like service not specified in subsection (a) or (b).
- § 154. Enforcement and collection.**
- (a) **General rule.**—The Department of State shall not be required to receive or file any document or paper unless the same shall be accompanied by the proper fee, but the department may in its discretion permit the filing of any document or paper without first requiring payment of the fee required by this subchapter when satisfied that the fee will be paid promptly. If any such fee is not paid in the manner and within the time prescribed by regulation of the department, the filing to which such fee relates shall become void.
- (b) **Extension of credit.**—The department may make provision by regulation for the extension of credit to persons dealing with it. Any person who shall fail or refuse to satisfy any indebtedness owing to the Commonwealth under this subchapter in the manner and within the time prescribed by regulation adopted pursuant to this subsection shall pay to the Commonwealth, in addition to the principal amount of such indebtedness and interest thereon, liquidated damages in the amount of \$500.
- § 155. Disposition of funds.**
- (a) **Establishment of restricted account.**—There is hereby established in the General Fund a restricted account to be known as the Corporation Bureau Restricted Account. This account shall receive 30% of the amount received by the Department of State under this subchapter. The balance of the amount received by the Department of State under this subchapter shall be deposited in the General Fund. Funds in the Corporation Bureau Restricted Account shall be used solely for the operation of the Corporation Bureau in the Department of State and for its modernization as may be required for improved operations of the bureau.
- (b) **Expenditures.**—The Department of State shall submit a budget for the operation or modernization of the Corporation Bureau to the Governor for approval. Such funds as are approved by the Governor are hereby appropriated from the Corporation Bureau Restricted Account to the Department of State for the operation of the bureau.
- (c) **Advisory committee.**—The Secretary of the Commonwealth shall appoint a Corporation Bureau Advisory Committee. The committee shall be composed of persons knowledgeable in matters covered by this title and related provisions of law and who have been recommended for appointment to the committee by the organized bar or other organized users of the facili-

ties and services of the bureau. Members shall serve without compensation other than reimbursement for reasonable and necessary expenses in accordance with Commonwealth policy or regulations, shall serve for terms fixed by the Secretary and may be reappointed. The Chairman of the committee shall be elected by the committee. The committee shall make recommendations to the Governor with respect to each budget submitted under subsection (b) and may consult with the Department of State in the administration of this title and related provisions of law.

SUBCHAPTER [C] D  
DEFINITIVE AND CONTINGENT DOMESTICATION OF  
[FOREIGN] *ALIEN* ASSOCIATIONS

§ [151] 161. Domestication of certain [foreign] *alien* associations.

\* \* \*

(e) Exclusion.—An association that can be domesticated under section 4161 (relating to domestication) or 6161 (relating to domestication) shall not be domesticated under this section.

(f) Definition.—As used in this section, the term “association,” except as restricted by subsection (e), includes any *alien* incorporated organization, private law corporation (whether or not organized for business purposes), public law corporation, partnership, proprietorship, joint venture, foundation, trust, association or similar organization or entity.

\* \* \*

§ [152] 162. Contingent domestication of certain foreign associations.

(a) General rule.—Any association as defined in subsection (i) may become a contingent domestic association by filing in the Department of State a statement of contingent domestication. The statement of contingent domestication and all papers and information relating thereto shall remain confidential and shall not be available for public inspection until and unless the association files a [notice] *statement* of consummation of domestication as provided in subsection (c).

(b) Statement of contingent domestication.—The statement of contingent domestication shall be executed by the association and shall set forth in the English language:

(1) In the case of:

(i) a corporation subject to section 4161 (relating to domestication), the statements required to be set forth in articles of domestication (except the statement required by section 4161(b)(6)).];

(ii) a corporation subject to section 6161 (relating to domestication), the statements required to be set forth in articles of domestication (except the statement required by section 6161(b)(6)); or

[(2) In the case of]

(iii) any other association, the statements required by section [151(b)] 161(b) (relating to statement of domestication) to be set forth in a statement of domestication (except the statement required by section [151(b)(5)] 161(b)(5)).

**[(3)] (2)** A statement that the effectiveness of the statement is contingent upon the subsequent filing of a **[notice] statement** of consummation of domestication.

**[(4)] (3)** A statement that the filing of the statement of contingent domestication and the delegation of authority to file a **[notice] statement** of consummation of domestication has been authorized (unless its charter or other organic documents require a greater vote):

(i) by a majority vote of the votes cast by all shareholders entitled to vote thereon and, if any class of shares is entitled to vote thereon as a class, a majority of the votes cast in each class vote, in the case of a corporation subject to section 4161; **[or]**

(ii) *by a majority vote of the votes cast by all members, if any, entitled to vote thereon and, if any class of members is entitled to vote thereon as a class, a majority of the votes cast in each class vote, in the case of a corporation subject to section 6161; or*

**[(ii)] (iii)** by a majority in interest of the shareholders, members or other proprietors of the association in any other case.

(c) **[Notice] Statement** of consummation of domestication.—At any time after the filing of a statement of contingent domestication, the association may file in the department a **[notice] statement** of consummation of domestication which shall be executed by the association and shall set forth:

(1) The name of the association. If the name is in a foreign language, it shall be set forth in Roman letters or characters or Arabic or Roman numerals.

(2) A statement that either:

(i) an emergency condition exists in the jurisdiction the law of which governs the internal affairs of the association and that in the judgment of the management of the association a temporary transfer of the domicile of the association to this Commonwealth is warranted by the circumstances; or

(ii) an event has occurred that, under the law of the jurisdiction governing the internal affairs of the association, permits the association to transfer its domicile.

(d) Statement of termination of domestication.—At any time after the filing of a **[notice] statement** of consummation of domestication, the association may file in the department a statement of termination of domestication which shall be executed by the association and shall set forth:

(1) The name of the association in the form set forth in the prior filings under this section.

(2) **[A]** *If a statement of consummation of domestication has theretofore been filed and is then in effect, a statement that the association elects to terminate its domicile in this Commonwealth.*

(3) A statement that either:

(i) the statement of contingent domestication is reinstated pending the filing in the department of a new **[notice] statement** of consummation of domestication; or

(ii) the statement of contingent domestication is withdrawn.

(e) **[Method of filing] *Execution of filings.***—[Documents may be filed in the department under this section by electronic mail, telecopy, telex or other form of writing, but such filing shall expire if a duly executed duplicate is not filed in the usual format within 30 days after the initial filing.] All documents filed under this section shall be signed on behalf of the association by any authorized person.

(f) **Effect of filing [notice] *statement* of consummation of domestication.**—Upon the filing of a [notice] *statement* of consummation of domestication, and until the filing of a [notice of revocation] *statement of termination* of domestication, the association shall have the status under the law of this Commonwealth of:

(1) a business corporation domesticated under section 4161, in the case of a corporation subject to that section; [or]

(2) a nonprofit corporation domesticated under section 6161, in the case of a corporation subject to that section; or

[(2)] (3) an association domesticated under section [151] 161, in any other case.

(g) **Effect of filing a statement of termination of domestication.**—Upon the filing of a statement of termination of domestication, the association shall under the law of this Commonwealth revert to the status it held prior to the filing of:

(1) the [notice] *statement* of consummation of domestication, if the statement of termination of domestication states that the statement of contingent domestication is reinstated; or

(2) the statement of contingent domestication, if the statement of termination of domestication states that the statement of contingent domestication is withdrawn.

(h) **[Filing fee and annual] *Annual renewal.***—[In addition to the filing fees otherwise provided by law, an additional fee of \$1,000 per year or portion thereof shall be payable annually by any association that has in effect any contingent or temporary domiciliary status under this section.] A renewal application may be filed between October 1 and December 31 in each year and shall extend the applicability of this section for the following calendar year. Otherwise the association shall not be entitled to any of the benefits of this section. *See section 153(a)(14) (relating to contingent domestication).*

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## SUBCHAPTER B FIDUCIARY DUTY AND INDEMNIFICATION

Sec.

- 511. Application and effect of subchapter.
- 512. Standard of care and justifiable reliance.
- 513. Personal liability of directors.
- 514. Notation of dissent.
- 515. Exercise of powers generally.
- 516. Alternative standard.
- 517. Limitation on standing.

518. Nonexclusivity and supplementary coverage.

§ 511. Application and effect of subchapter.

(a) General rule.—This subchapter shall apply to and the terms “corporation” or “domestic corporation” in this subchapter shall mean a domestic corporation except:

(1) A business corporation as defined in section 1103 (relating to definitions).

(2) A nonprofit corporation as defined in section 5103 (relating to definitions).

(b) Alternative provisions.—Section 516 (relating to alternative standard) shall not be applicable to any corporation to which section 515 (relating to exercise of powers generally) is applicable. Section 515 shall be applicable to any corporation except a corporation:

(1) the bylaws of which, by amendment adopted by the board of directors on or before July 26, 1990, and not subsequently rescinded by an articles amendment, explicitly provide that section 515 or corresponding provisions of prior law shall not be applicable to the corporation; or

(2) the articles of which explicitly provide that section 515 or corresponding provisions of prior law shall not be applicable to the corporation.

§ 512. Standard of care and justifiable reliance.

(a) Directors.—A director of a domestic corporation shall stand in a fiduciary relation to the corporation and shall perform his duties as a director, including his duties as a member of any committee of the board upon which he may serve, in good faith, in a manner he reasonably believes to be in the best interests of the corporation and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. In performing his duties, a director shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

(1) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented.

(2) Counsel, public accountants or other persons as to matters which the director reasonably believes to be within the professional or expert competence of such person.

(3) A committee of the board upon which he does not serve, duly designated in accordance with law, as to matters within its designated authority, which committee the director reasonably believes to merit confidence.

(b) Effect of actual knowledge.—A director shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that would cause his reliance to be unwarranted.

(c) Officers.—Except as otherwise provided in the articles, an officer shall perform his duties as an officer in good faith, in a manner he reasonably believes to be in the best interests of the corporation and with such care,

including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. A person who so performs his duties shall not be liable by reason of having been an officer of the corporation.

§ 513. Personal liability of directors.

(a) General rule.—If a bylaw adopted by the shareholders entitled to vote or members entitled to vote of a domestic corporation so provides, a director shall not be personally liable, as such, for monetary damages for any action taken unless:

(1) the director has breached or failed to perform the duties of his office under this subchapter; and

(2) the breach or failure to perform constitutes self-dealing, willful misconduct or recklessness.

(b) Exceptions.—Subsection (a) shall not apply to:

(1) the responsibility or liability of a director pursuant to any criminal statute; or

(2) the liability of a director for the payment of taxes pursuant to Federal, State or local law.

(c) Cross reference.—See 42 Pa.C.S. § 8332.5 (relating to corporate representatives).

§ 514. Notation of dissent.

A director of a domestic corporation who is present at a meeting of its board of directors, or of a committee of the board, at which action on any corporate matter is taken on which the director is generally competent to act, shall be presumed to have assented to the action taken unless his dissent is entered in the minutes of the meeting or unless he files his written dissent to the action with the secretary of the meeting before the adjournment thereof or transmits the dissent in writing to the secretary of the corporation immediately after the adjournment of the meeting. The right to dissent shall not apply to a director who voted in favor of the action. Nothing in this subchapter shall bar a director from asserting that minutes of the meeting incorrectly omitted his dissent if, promptly upon receipt of a copy of such minutes, he notifies the secretary in writing of the asserted omission or inaccuracy.

§ 515. Exercise of powers generally.

(a) General rule.—In discharging the duties of their respective positions, the board of directors, committees of the board and individual directors of a domestic corporation may, in considering the best interests of the corporation, consider to the extent they deem appropriate:

(1) The effects of any action upon any or all groups affected by such action, including shareholders, members, employees, suppliers, customers and creditors of the corporation, and upon communities in which offices or other establishments of the corporation are located.

(2) The short-term and long-term interests of the corporation, including benefits that may accrue to the corporation from its long-term plans and the possibility that these interests may be best served by the continued independence of the corporation.



(3) The resources, intent and conduct (past, stated and potential) of any person seeking to acquire control of the corporation.

(4) All other pertinent factors.

(b) Consideration of interests and factors.—The board of directors, committees of the board and individual directors shall not be required, in considering the best interests of the corporation or the effects of any action, to regard any corporate interest or the interests of any particular group affected by such action as a dominant or controlling interest or factor. The consideration of interests and factors in the manner described in this subsection and in subsection (a) shall not constitute a violation of section 512 (relating to standard of care and justifiable reliance).

(c) Specific applications.—In exercising the powers vested in the corporation, and in no way limiting the discretion of the board of directors, committees of the board and individual directors pursuant to subsections (a) and (b), the fiduciary duty of directors shall not be deemed to require them to act as the board of directors, a committee of the board or an individual director solely because of the effect such action might have on an acquisition or potential or proposed acquisition of control of the corporation or the consideration that might be offered or paid to shareholders or members in such an acquisition.

(d) Presumption.—Absent breach of fiduciary duty, lack of good faith or self-dealing, any act as the board of directors, a committee of the board or an individual director shall be presumed to be in the best interests of the corporation. In assessing whether the standard set forth in section 512 has been satisfied, there shall not be any greater obligation to justify, or higher burden of proof with respect to, any act as the board of directors, any committee of the board or any individual director relating to or affecting an acquisition or potential or proposed acquisition of control of the corporation than is applied to any other act as a board of directors, any committee of the board or any individual director. Notwithstanding the preceding provisions of this subsection, any act as the board of directors, a committee of the board or an individual director relating to or affecting an acquisition or potential or proposed acquisition of control to which a majority of the disinterested directors shall have assented shall be presumed to satisfy the standard set forth in section 512, unless it is proven by clear and convincing evidence that the disinterested directors did not assent to such act in good faith after reasonable investigation.

(e) Definition.—The term “disinterested director” as used in subsection (d) and for no other purpose means:

(1) A director of the corporation other than:

(i) A director who has a direct or indirect financial or other interest in the person acquiring or seeking to acquire control of the corporation or who is an affiliate or associate, as defined in section 2552 (relating to definitions), of, or was nominated or designated as a director by, a person acquiring or seeking to acquire control of the corporation.

(ii) Depending on the specific facts surrounding the director and the act under consideration, an officer or employee or former officer or employee of the corporation.

(2) A person shall not be deemed to be other than a disinterested director solely by reason of any or all of the following:

(i) The ownership by the director of shares of or a membership in the corporation.

(ii) The receipt as a holder of shares of or as a member of any class or series of any distribution made to all owners of shares of or members of that class or series.

(iii) The receipt by the director of director's fees or other consideration as a director.

(iv) Any interest the director may have in retaining the status or position of director.

(v) The former business or employment relationship of the director with the corporation.

(vi) Receiving or having the right to receive retirement or deferred compensation from the corporation due to service as a director, officer or employee.

(f) Cross reference.—See section 511(b) (relating to alternative provisions).

§ 516. Alternative standard.

(a) General rule.—In discharging the duties of their respective positions, the board of directors, committees of the board and individual directors of a domestic corporation may, in considering the best interests of the corporation, consider the effects of any action upon employees, upon suppliers and customers of the corporation and upon communities in which offices or other establishments of the corporation are located, and all other pertinent factors. The consideration of those factors shall not constitute a violation of section 512 (relating to standard of care and justifiable reliance).

(b) Presumption.—Absent breach of fiduciary duty, lack of good faith or self-dealing, actions taken as a director shall be presumed to be in the best interests of the corporation.

(c) Cross reference.—See section 511(b) (relating to alternative provisions).

§ 517. Limitation on standing.

The duty of the board of directors, committees of the board and individual directors under section 512 (relating to standard of care and justifiable reliance) is solely to the domestic corporation and may be enforced directly by the corporation or may be enforced by a shareholder or member, as such, by an action in the right of the corporation, and may not be enforced directly by a shareholder, member or by any other person or group. Notwithstanding the preceding sentence, sections 515(a) and (b) (relating to exercise of powers generally) and 516(a) (relating to alternative standard) do not impose upon the board of directors, committees of the board and individual directors any legal or equitable duties, obligations or liabilities or create any right or cause of action against, or basis for standing to sue, the board of directors, committees of the board and individual directors.

§ 518. Nonexclusivity and supplementary coverage.

(a) General rule.—The indemnification and advancement of expenses provided by or pursuant to section 522 (relating to indemnification of authorized representatives) or any other provisions of law providing for indemnification or advancement of expenses applicable to any domestic corporation shall not be deemed exclusive of any other rights to which a person seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of shareholders, members or directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding that office. Any domestic corporation may create a fund of any nature, which may, but need not be, under the control of a trustee, or otherwise secure or insure in any manner its indemnification obligations, whether arising under or pursuant to this section or otherwise.

(b) When indemnification is not to be made.—Indemnification pursuant to subsection (a) shall not be made in any case where the act giving rise to the claim for indemnification is determined by a court to have constituted willful misconduct or recklessness.

(c) Grounds.—Indemnification pursuant to subsection (a) under any bylaw, agreement, vote of shareholders, members or directors or otherwise may be granted for any action taken and may be made whether or not the corporation would have the power to indemnify the person under any other provision of law except as provided in this section and whether or not the indemnified liability arises or arose from any threatened, pending or completed action by or in the right of the corporation. Such indemnification is declared to be consistent with the public policy of this Commonwealth.

(d) Payment of expenses.—Expenses incurred by an officer, director, employee or agent in defending any action or proceeding against which indemnification may be made pursuant to this section may be paid by the corporation in advance of the final disposition of such action or proceeding upon receipt of an undertaking by or on behalf of such person to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the corporation.

(e) Rights to indemnification.—The indemnification and advancement of expenses provided by, or granted pursuant to, this section shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such person.

§ 521. Pensions and allowances.

A banking institution[, a credit union, insurance corporation] or a savings association may grant allowances or pensions to officers, directors and employees for faithful and long-continued services and, after the death of the officer, director or employee either while in the service of the corporation or after retirement, pensions or allowances may be granted or continued to their dependents. The allowances to dependents shall be reasonable in amount and paid only for a limited time and, unless part of an employee benefit plan or employment contract in effect at the time of retirement or death of the officer, director or employee, shall not exceed in total the

amount of the compensation paid to the officer, director or employee during the 12 months preceding retirement or death.

§ 522. Indemnification of authorized representatives.

A banking institution[, a credit union, an insurance corporation] or a savings association shall be governed by the provisions of Subchapter [C] D of Chapter 17 (relating to indemnification).

§ 523. Actions by shareholders or members to enforce a secondary right.

(a) General rule.—In any action brought to enforce a secondary right on the part of one or more shareholders or members against any officer or director or former officer or director of a banking institution[, a credit union, an insurance corporation] or a savings association, because the corporation refuses to enforce rights which may properly be asserted by it, the plaintiff or plaintiffs must aver and it must be made to appear that the plaintiff or each plaintiff was a shareholder or was a member of the corporation at the time of the transaction of which he complains or that his stock or membership devolved upon him by operation of law from a person who was a shareholder or member at that time.

\* \* \*

§ 1102. Application of subpart.

\* \* \*

(c) Exclusions.—This subpart shall not apply to any of the following corporations, whether proposed or existing, except as otherwise expressly provided in this subpart or as otherwise provided by statute applicable to the corporation:

- (1) A banking institution.
- (2) A credit union.
- (3) [A domestic or foreign insurance corporation.
- (4)] A savings association.

\* \* \*

§ 1103. Definitions.

Subject to additional definitions contained in subsequent provisions of this subpart that are applicable to specific provisions of this subpart, the following words and phrases when used in this subpart shall have the meanings given to them in this section unless the context clearly indicates otherwise:

\* \* \*

“Credit union.” [or “domestic credit union.” A domestic corporation for profit that is a credit union as defined in the act of September 20, 1961 (P.L.1548, No.658), known as the Credit Union Act] *A credit union as defined in 17 Pa.C.S. § 102 (relating to application of title).*

\* \* \*

“Distribution.” A direct or indirect transfer of money or other property (except its own shares or options, rights or warrants to acquire its own shares) or incurrence of indebtedness by a corporation to or for the benefit of any of its shareholders in respect of any of its shares whether by dividend or by purchase, redemption or other acquisition of its shares or otherwise. *A guarantee issued by a corporation for the benefit of any of its shareholders shall not constitute a distribution until such time as a valid demand for payment under the guarantee is made upon the corporation.*

\* \* \*

“Entitled to vote.” Those persons entitled [at the time] to vote on the matter under [a plan or the terms of a fundamental transaction where dissenters rights are not available under section 1571(b)(2)(ii) (relating to exceptions) or under the articles or] *either the* bylaws of the corporation or any applicable controlling provision of law. *The term includes those persons entitled at the time to vote on the matter under a plan or the terms of a fundamental transaction where dissenters rights are not available under section 1571(b)(2)(ii) (relating to exceptions).*

“Exchange Act.” *The Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. § 78a et seq.).*

\* \* \*

“Foreign insurance corporation.” A corporation for profit incorporated under any laws other than those of this Commonwealth that is qualified to do business in this Commonwealth under the act of [May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.] *May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921.*

\* \* \*

“Insurance corporation” or “domestic insurance corporation.” [A domestic corporation for profit that is incorporated under or subject to The Insurance Company Law of 1921 or any statute relating to the incorporation or reincorporation of limited life insurance companies.] *An insurance corporation as defined in section 3102 (relating to definitions).*

“Internal Revenue Code of 1986.” *The Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).*

“Investment Company Act of 1940.” *The Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 et seq.).*

\* \* \*

“Mutual insurance company.” *A mutual insurance company as defined in section 3102 (relating to definitions).*

\* \* \*

“Qualified foreign business corporation.” A foreign business corporation *that is:*

- (1) authorized under Chapter 41 (relating to foreign business corporations) to do business in this Commonwealth; *or*
- (2) *a foreign insurance corporation.*

“Reclassification.” A change in the number, voting rights, designations, preferences, limitations, special rights or par value of shares, or a conversion or exchange of one class or series of shares into or for another class or series of shares, *other securities or obligations* of the same corporation, or the cancellation of shares. The term does not include a stock dividend or split effected by distribution of its own previously authorized shares pro rata to the holders of shares of the same or any other class or series pursuant to action solely of the board of directors.

\* \* \*

“Relax.” *When used with respect to a provision of the articles or bylaws, means to provide lesser rights for an affected representative or shareholder.*

\* \* \*

*“Securities Act of 1933.” The Securities Act of 1933 (48 Stat. 74, 15 U.S.C. § 77a et seq.).*

\* \* \*

§ 1104. Other general provisions.

The following provisions of this title are applicable to corporations subject to this subpart:

- Section 101 (relating to short title and application of title).
- Section 102 (relating to definitions).
- Section 103 (relating to subordination of title to regulatory laws).
- Section 104 (relating to equitable remedies).
- Section 105 (relating to fees).
- Section 106 (relating to effect of filing papers required to be filed).
- Section 107 (relating to form of records).
- Section 108 (relating to change in location or status of registered office provided by agent).
- Section 109 (relating to name of commercial registered office provider in lieu of registered address).
- Section 110 (relating to supplementary general principles of law applicable).
- Section 132 (relating to functions of Department of State).
- Section 133 (relating to powers of Department of State).
- Section 134 (relating to docketing statement).
- Section 135 (relating to requirements to be met by filed documents).
- Section 136 (relating to processing of documents by Department of State).
- Section 137 (relating to court to pass upon rejection of documents by Department of State).
- Section 138 (relating to statement of correction).
- Section 139 (relating to tax clearance of certain fundamental transactions).
- Section 140 (relating to custody and management of orphan corporate and business records).*
- Section 152 (relating to definitions).*
- Section 153 (relating to fee schedule).*
- Section 154 (relating to enforcement and collection).*
- Section 155 (relating to disposition of funds).*
- Section [152] 162 (relating to contingent domestication of certain foreign associations).
- Section 501 (relating to reserved power of General Assembly).
- Section 503 (relating to actions to revoke corporate franchises).
- Section 504 (relating to validation of certain defective corporations).
- Section 505 (relating to validation of certain defective corporate acts).
- Section 506 (relating to scope and duration of certain franchises).
- Section 507 (relating to validation of certain share authorizations).
- [Section 511 (relating to standard of care and justifiable reliance).**

**Section 512 (relating to personal liability of directors).**

**Section 513 (relating to nonexclusivity and supplementary coverage).]**

§ 1106. Uniform application of subpart.

\* \* \*

(b) Exceptions.—

(1) Unless expressly provided otherwise in any amendment to this subpart, the amendment shall take effect only prospectively.

(2) An existing corporation lawfully using a name or, as part of its name, a word that could not be used as or included in the name of a corporation subsequently incorporated or qualified under this subpart may continue to use the name or word as part of its name if the use or inclusion of the word or name was lawful when first adopted by the corporation in this Commonwealth.

(3) Subsection (a) shall not adversely affect the rights specifically provided for or saved in this subpart. See:

**[The provisions of section 1521(b)(3) (relating to provisions specifically authorized).]**

The provisions of section 1524(e) (relating to transitional provision).

**[The preemptive rights set forth in section 1530(b) (relating to preexisting preemptive rights).]**

The provisions of section 1554(c) (relating to transitional provision).

The cumulative voting rights set forth in section 1758(c)(2) (relating to cumulative voting).

**[The class voting rights upon certain amendments of articles set forth in section 1914(b)(3) (relating to statutory voting rights).]**

*The special voting requirements specified in section 1931(h) (relating to special requirements).*

The special voting requirements specified in section 1952(h) (relating to special requirements).

The provisions of section 2301(d) (relating to transitional provisions).

The provisions of section 2541(a)(2) and (3) and (c) (relating to application and effect of subchapter).

The provisions of section 2543(b)(1) and (2) (relating to exceptions generally).

The provisions of section 2551(b)(3)(i), (5) and (6) (relating to exceptions).

The provisions of section 2553(b)(2) (relating to exception).

**(4) Except as otherwise expressly provided in the articles, a domestic corporation for profit that, on September 30, 1989, was not subject to the Business Corporation Law of 1933 and that thereafter becomes subject to this subpart by operation of law shall be deemed to have in effect articles that provide that the following provisions of this subpart shall not be applicable to the corporation:**

**(i) Section 1726(a)(1) (relating to removal by the shareholders) insofar as it provides a statutory right on the part of shareholders to remove directors from office without assigning any cause.**

(ii) *Section 1755(b)(2) (relating to special meetings).*

(iii) *Section 1912(a)(2) (relating to proposal of amendments).*

§ 1107. *(Reserved).*

§ [1107] 1108. Limitation on incorporation.

A corporation that can be incorporated under this subpart shall not be incorporated except under the provisions of this subpart.

§ [1108] 1109. Execution of documents.

(a) General rule.—Any document filed in the Department of State under this title by a domestic or foreign business corporation subject to this subpart may be executed on behalf of the corporation by any one duly authorized officer thereof. The corporate seal may be affixed and attested but the affixation or attestation of the corporate seal shall not be necessary for the due execution of any filing by a corporation under this title.

(b) Cross reference.—See section 135 (relating to requirements to be met by filed documents).

§ 1110. *Annual report information.*

*The Department of State shall make available as public information for inspection and copying the names of the president, vice-president, secretary and treasurer of corporations for profit as annually forwarded to the Department by the Department of Revenue pursuant to section 403(a)(3) of the act of March 4, 1971 (P.L. 6, No.2), known as the Tax Reform Code of 1971.*

§ 1303. Corporate name.

\* \* \*

(b) Duplicate use of names.—The corporate name shall not be the same as or confusingly similar to:

(1) The name of any other domestic corporation for profit or not-for-profit *which is either in existence or for which articles of incorporation have been filed but have not yet become effective*, or of any foreign corporation for profit or not-for-profit *which is either authorized to do business in this Commonwealth or for which an application for a certificate of authority has been filed but has not yet become effective*, or of any domestic or foreign limited partnership that has filed *in the Department of State* a certificate or qualified under Chapter 85 (relating to limited partnerships) or under corresponding provisions of prior law, or the name of any association registered at any time under 54 Pa.C.S. Ch. 5 (relating to corporate and other association names), unless:

(i) where the name is the same or confusingly similar, the other association:

(A) has stated that it is about to change its name, or to cease to do business, or is being wound up, or is a foreign association about to withdraw from doing business in this Commonwealth, and the statement and the written consent of the other association to the adoption of the name is filed in the Department of State;

(B) has filed with the Department of Revenue a certificate of out of existence, or has failed for a period of three successive years to file with [the Department of State or] the Department of Revenue a report or return required by law[,] and [in the case of a failure to file



with the Department of Revenue,] the fact of such failure has been certified by the Department of Revenue to the Department of State;

(C) has abandoned its name under the laws of its jurisdiction of incorporation, by amendment, merger, consolidation, division, expiration, dissolution or otherwise, without its name being adopted by a successor in a merger, consolidation, division or otherwise, and an official record of that fact, certified as provided by 42 Pa.C.S. § 5328 (relating to proof of official records), is presented by any person to the department; or

(D) has had the registration of its name under 54 Pa.C.S. Ch. 5 terminated and, if the termination was effected by operation of 54 Pa.C.S. § 504 (relating to effect of failure to make decennial filings), the application for the use of the name is accompanied by a verified statement stating that at least 30 days' written notice of intention to appropriate the name was given to the delinquent association at its registered office and that, after diligent search by the affiant, the affiant believes the association to be out of existence; or

(ii) where the name is confusingly similar, the consent of the other association to the adoption of the name is filed in the Department of State.

The consent of the association shall be evidenced by a [certificate] *statement* to that effect executed by the association.

\* \* \*

(c) Required approvals or conditions.—

(1) The corporate name shall not imply that the corporation is:

\* \* \*

(iii) An insurance company [that could be incorporated under the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921] *nor contain any of the words "annuity," "assurance," "beneficial," "bond," "casualty," "endowment," "fidelity," "fraternal," "guaranty," "indemnity," "insurance," "insurer," "reassurance," "reinsurance," "surety" or "title" when used in such a way as to imply that the corporation is engaged in the business of writing insurance or reinsurance as principal or any other words of like purport unless it is duly licensed as an insurance company by its jurisdiction of incorporation or the Insurance Department certifies that it has no objection to the use by the corporation or proposed corporation of the designation. The corporate name of a domestic insurance corporation shall:*

(A) *contain the word "mutual" if, and only if, it is a mutual insurance company; and*

(B) *clearly designate the object and purpose of the corporation.*

\* \* \*

(v) *A credit union. See 17 Pa.C.S. § 104 (relating to prohibition on use of words "credit union," etc.).*

\* \* \*

§ 1306. Articles of incorporation.

(a) General rule.—Articles of incorporation shall be signed by each of the incorporators and shall set forth in the English language:

\* \* \*

(8) Any other provisions that the incorporators may choose to insert if:

(i) any provision of this subpart authorizes or requires provisions pertaining to the subject matter thereof to be set forth in the articles or bylaws of a business corporation or in an agreement or other instrument; or

(ii) the provisions, whether or not specifically authorized by this subpart, relate to the purpose or purposes of the corporation, the management of its business or affairs or the rights, powers or duties of its securityholders, directors or officers.

[The articles may, but need not, set forth a par value for any authorized shares or class of shares.]

*(b) Other provisions authorized.—A provision of the original articles or a provision of the articles approved by the shareholders, in either case adopted under subsection (a)(8)(ii), may relax or be inconsistent with and supersede any provision of Chapter 13 (relating to incorporation), 15 (relating to corporate powers, duties and safeguards), 17 (relating to officers, directors and shareholders) or 19 (relating to fundamental changes) concerning the subjects specified in subsection (a)(8)(ii), except where a provision of those chapters expressly provides that the articles shall not relax or be inconsistent with any provision on a specified subject. Notwithstanding the foregoing, the articles may provide greater rights for shareholders than are authorized by any provision of those chapters that otherwise provides that the articles shall not relax or be inconsistent with any provision on a specified subject. Except as otherwise expressly provided in Chapter 25 (relating to registered corporations), the articles may not vary any provision of that chapter.*

*(c) Par value.—The articles may, but need not, set forth a par value for any authorized shares or class or series of shares.*

**[(b)] (d)** Written consent to naming directors.—The naming of directors in articles of incorporation shall constitute an affirmation that the directors have consented in writing to serve as such.

§ 1504. Adoption, amendment and contents of bylaws.

\* \* \*

(b) Exception.—Except as *otherwise* provided in section 1310(a) (relating to organization meeting) *or in the articles, to the extent authorized by section 1306(b) (relating to other provisions authorized)*, the board of directors shall not have the authority to adopt or change a bylaw on any subject that is committed expressly to the shareholders by any of the provisions of this subpart. See:

*Subsection (d) (relating to amendment of voting provisions).*

Section 1521 (relating to authorized shares).

*Section 1713 (relating to personal liability of directors).*

Section 1721 (relating to board of directors).

*Section 1725 (relating to selection of directors).*

Section 1726 (relating to removal of directors).

Section 1729 (relating to voting rights of directors).

Section 1756 (relating to quorum).

Section 1757 (relating to action by shareholders).

Section 1765 (relating to judges of election).

Section 2105 (relating to termination of nonstock corporation status).

Section 2122 (relating to classes of membership).

Section 2124 (relating to voting rights of members).

Section 2302 (relating to definition of minimum vote).

Section 2321 (relating to shares).

Section 2322 (relating to share transfer restrictions).

Section 2325 (relating to sale option of estate of shareholder).

Section 2332 (relating to management by shareholders).

Section 2334 (relating to appointment of provisional director in certain cases).

Section 2337 (relating to option of shareholder to dissolve corporation).

Section 2923 (relating to issuance and retention of shares).

\* \* \*

(d) Amendment of voting provisions.—[A provision in the bylaws that requires a specific number or percentage of votes for the taking of any action by the shareholders or a class of shareholders may, unless otherwise provided in a bylaw adopted by the shareholders, be amended or repealed in the same manner and by the same vote as is required to amend or repeal any other provision in the bylaws.] *Unless otherwise provided in a bylaw adopted by the shareholders, whenever the bylaws require for the taking of any action by the shareholders or a class of shareholders a specific number or percentage of votes, the provision of the bylaws setting forth that requirement shall not be amended or repealed by any lesser number or percentage of votes of the shareholders or of the class of shareholders.*

§ 1505. Persons bound by bylaws.

Except as otherwise provided by [section 512 (relating to personal liability of directors) or 1721(e) (relating to personal liability of directors), or 42 Pa.C.S. § 8364] *section 1713* (relating to personal liability of directors) or any similar provision of law, the bylaws of a business corporation shall operate only as regulations among the shareholders of the corporation and shall not affect contracts or other dealings with other persons unless those persons have actual knowledge of the bylaws.

§ 1508. Corporate records; inspection.

\* \* \*

(d) [Cross reference.—See section 4145 (relating to applicability of certain safeguards to foreign domiciliary corporations).] *Certain provisions of articles ineffective.—This section may not be relaxed by any provision of the articles.*

(e) *Cross reference.*—See section 1763(c) (relating to certification by nominee).

§ 1510. [Usury not a defense] *Certain specifically authorized debt terms.*

(a) [General rule] *Interest rates.*—A business corporation shall not plead or set up usury, or the taking of more than the lawful rate of interest, or the taking of any finance, service or default charge in excess of any maximum rate therefor provided or prescribed by law, as a defense to any action or proceeding brought against it to recover damages on, or to enforce payment of, or to enforce any other remedy on, any obligation executed or effected by the corporation.

(b) *Yield maintenance premiums.*—A prepayment premium determined by reference to the approximate spread between the yield at issuance, or at the date of amendment of any of the terms, of an obligation of a corporation and the yield at or about such date of an interest rate index of independent significance and contingent upon a change in the ownership of the shares of or a default by or other change in the condition or prospects of the issuer or any affiliate of the issuer shall be deemed liquidated damages and shall not constitute a penalty.

[(b) Definition] (c) *Definitions.*—As used in this section, [the term “obligation” includes] *the following words shall have the meanings given to them in this subsection:*

“Affiliate.” *An affiliate or associate as defined in section 2552 (relating to definitions).*

“Obligation.” *Includes an installment sale contract.*

[(c)] (d) *Cross reference.*—See section 4146 (relating to provisions applicable to all foreign corporations).

§ 1521. Authorized shares.

\* \* \*

(b) Provisions specifically authorized.—

(1) Without limiting the authority contained in subsection (a), a corporation, when so authorized in its articles, may issue classes or series of shares:

(i) Subject to the right or obligation of the corporation to redeem any of the shares for the consideration, if any, fixed by or in the manner provided by the articles for the redemption thereof. Unless otherwise provided in the articles, any shares subject to redemption shall be redeemable only pro rata or by lot or by such other equitable method as may be selected by the corporation. *An amendment of the articles to add or amend a provision permitting the redemption of any shares by a method that is not pro rata nor by lot nor otherwise equitable may be effected only pursuant to section 1906 (relating to special treatment of holders of shares of same class or series).*

(ii) Entitling the holders thereof to cumulative, noncumulative or partially cumulative dividends.

(iii) Having preference over any other shares as to dividends or assets or both.

- (iv) Convertible into shares of any other class or series, or into obligations of the corporation.
- (2) Any of the terms of a class or series of shares may be made dependent upon:
- (i) Facts ascertainable outside of the articles if the manner in which the facts will operate upon the terms of the class or series is set forth in the articles.
- (ii) Terms incorporated by reference to an existing agreement between the corporation and one or more other parties, or to another document of independent significance, if the articles state that the full text of the agreement or other document is on file at the principal place of business of the corporation and state the address thereof. A corporation that takes advantage of this subparagraph shall furnish a copy of the full text of the agreement or other document, on request and without cost, to any shareholder and, unless it is a closely held corporation, on request and at cost, to any other person.
- (3) The articles may **[expressly]** confer upon a shareholder a specifically enforceable right to the declaration and payment of dividends, the redemption of shares or the making of any other form of distribution if the distribution is at the time of enforcement then **[permitted] not prohibited** by section **[1551 (relating to distributions to shareholders)] 1551(b)(2) (relating to limitation)**. Such a **[provision adopted on or after January 1, 1989, shall not be valid unless it shall make] right shall not arise by implication, but only by either an** express reference to this section **or another express reference to specific enforceability of a distribution**.
- \* \* \*

§ 1524. Payment for shares.

(a) General rule.—Consideration for shares, unless otherwise restricted in the bylaws:

(1) May consist of money, obligations (including an obligation of a shareholder), services performed whether or not contracted for, contracts for services to be performed, *shares or other securities or obligations of the issuing business corporation*, or any other tangible or intangible property. If shares are issued for other than money, the value of the consideration shall be determined by or in the manner provided by the board of directors.

(2) Shall be paid to or as ordered by the **[business]** corporation.

\* \* \*

(c) Status of issued shares.—**[All] Except as provided in subsection (e), all issued shares of a business corporation shall be deemed fully paid regardless of failure to pay in full the agreed consideration therefor [and, except]. Except as otherwise provided by a regulatory statute controlling under section 103(c) (relating to structural provisions in regulatory statutes controlling), all issued shares of a corporation shall be nonassessable.** This subsection shall not affect the personal obligation of a subscriber for shares of a corporation to pay the agreed consideration for the shares.

\* \* \*

(e) Transitional provision.—A corporation may enforce calls on partly paid shares outstanding on **[January 1,] September 30, 1989**, in the same manner and to the same extent as if this subpart had not been enacted.

§ 1525. Stock rights and options.

\* \* \*

(c) Standard of care unaffected.—The provisions of subsections (a) and (b) and section 2513 shall not be construed to effect a change in the fiduciary relationship between a director and a business corporation or to change the standard of care of a director provided for in **[section 1721 (relating to board of directors)] Subchapter B of Chapter 17 (relating to fiduciary duty)**.

\* \* \*

(e) Shares subject to preemptive rights.—Authorized but unissued shares subject to preemptive rights may be issued and sold **[to holders of] pursuant to a plan providing for the issuance of rights or options** entitling the holders thereof to purchase shares of the same class or series as the shares subject to such preemptive rights upon the exercise of such rights or options **[only with the written consent or] if the plan is approved by the** affirmative vote of **[shareholders entitled to cast at least] a majority of the votes [that all] cast by the** shareholders entitled to exercise *such* preemptive rights **[with respect thereto are entitled to cast]**.

§ 1528. Shares represented by certificates and uncertificated shares.

\* \* \*

(b) Issue of certificates.—Every shareholder shall, except as otherwise provided in a **[bylaw] provision of the articles** adopted pursuant to subsection (f) or in the terms of a subscription that has not been fully performed by the subscriber, be entitled to a share certificate representing the shares owned by him.

\* \* \*

(d) Notice of variations in rights.—Every certificate representing shares issued by a business corporation that is authorized to issue shares of more than one class or series shall set forth upon the face or back of the certificate (or shall state on the face or back of the certificate that the corporation will furnish to any shareholder upon request and without charge) a full or summary statement of the designations, voting rights, preferences, limitations and special rights of the shares of each class or series authorized to be issued so far as they have been fixed and determined and the authority of the board of directors to fix and determine the designations, voting rights, preferences, limitations and special rights of the classes and series of shares of the corporation. See also sections **1524(d) (relating to rights of subscribing shareholder)**, 1529(f) (relating to notice to transferee) and 2321(c) (relating to notice of statutory close corporation status).

\* \* \*

(f) Uncertificated shares.—The **[bylaws] articles** may provide that any or all classes and series of shares, or any part thereof, shall be uncertificated shares except that such a provision shall not apply to shares represented by a certificate until the certificate is surrendered to the corporation. Within a reasonable time after the issuance or transfer of uncertificated shares, the

corporation shall send to the registered owner thereof a written notice containing the information required to be set forth or stated on certificates by subsections (c) and (d). Except as otherwise expressly provided by law, the rights and obligations of the holders of shares represented by certificates and the rights and obligations of the holders of uncertificated shares of the same class and series shall be identical.

§ 1530. Preemptive rights of shareholders.

(a) General rule.—Except as otherwise provided in the articles [**or in subsection (b)**], a business corporation may issue shares, option rights or securities having conversion or option rights, or obligations without first offering them to shareholders of any class or classes.

**[(b) Preexisting preemptive rights.—Unless otherwise provided in its articles, the shareholders of a nonregistered corporation shall have a preemptive right to subscribe for shares, option rights, or securities having option rights, issued for cash by the corporation, if the corporation was not incorporated hereunder or under the Business Corporation Law of 1933 and its shareholders were entitled to preemptive rights at the date the corporation became subject to this subpart, but this subsection shall apply neither to the holders of shares of a class issued after the date such corporation became subject to the Business Corporation Law of 1933 or this subpart nor to the issue of securities having conversion rights.]**

(c) Release of shares subject to preemptive rights.—Except as otherwise provided in the articles, shares (or any option rights or securities having conversion or option rights with respect to such shares) that have been offered to shareholders having a preemptive right thereto, at a price and upon terms duly fixed, and that have not been subscribed for by them within the time duly fixed by the articles or the board of directors, may be thereafter offered for subscription to any person or persons at a price and upon terms ~~not more favorable than those at which they were offered to such shareholders.~~

**[(b) Cross reference.—See section 1525(e) (relating to shares subject to preemptive rights).]**

§ 1551. Distributions to shareholders.

(a) General rule.—Unless otherwise restricted in the bylaws, the board of directors may authorize and a business corporation may make distributions. *A provision in the articles setting forth a par value for any authorized shares or class or series of shares shall not restrict the ability of a corporation to make distributions.*

(b) Limitation.—A distribution may not be made if, after giving effect thereto:

(1) the corporation would be unable to pay its debts as they become due in the usual course of its business; or

(2) the total assets of the corporation would be less than the sum of its total liabilities plus (unless otherwise provided in the articles) the amount that would be needed, if the corporation were to be dissolved at the time *as of which the distribution is measured*, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the distribution. **[For purposes of this paragraph, total assets and liabilities shall be determined by the]**

(c) *Valuation.*—*The board of directors[ , which] may base its determination [on such factors as it considers relevant, including without limitation:] that a distribution is not prohibited under subsection (b)(2) on one or more of the following:*

**[(i)] (1)** *the book values of the assets and liabilities of the corporation, as reflected on its books and records; [and*

**(ii)] (2)** *a valuation that takes into consideration unrealized appreciation and depreciation or other changes in value of the assets and liabilities of the corporation;*

**(3)** *the current value of the assets and liabilities of the corporation, either valued separately or valued in segments or as an entirety as a going concern; or*

**(4)** *any other method that is reasonable in the circumstances.*

*In determining whether a distribution is prohibited by subsection (b)(2), the board of directors need not consider obligations and liabilities unless they are required to be reflected on a balance sheet (not including the notes thereto) prepared on the basis of generally accepted accounting principles, or such other accounting practices and principles as are used generally by the corporation in the maintenance of its books and records and as are reasonable in the circumstances.*

**[See section 1721(b) (relating to standard of care; justifiable reliance).**

**(c)] (d)** *Date of distribution.*—**[In the case of a purchase, redemption or other acquisition of its own shares by a corporation, the effect of a distribution shall be measured as of the date money or other property is transferred or debt is incurred by the corporation or as of the date the shareholder ceases to be a shareholder of the corporation with respect to the shares, whichever is earlier. In] The effect of a distribution shall be measured:**

**(1)** *as of the date specified by the board of directors when it authorizes the distribution if the distribution occurs within 125 days of the earlier of the date so specified or the date of authorization; or*

**(2)** *as of the date of distribution in all other cases.], the effect of a distribution shall be measured as of the date of its authorization if payment occurs 120 days or less following the date of authorization or as of the date of payment if payment occurs more than 120 days following the date of authorization.]*

*In the case of a purchase, redemption or other acquisition of its own shares by a corporation, the distribution shall be deemed to occur as of the date money or other property is transferred or debt is incurred by the corporation or as of the date the shareholder ceases to be a shareholder of the corporation with respect to the shares, whichever is earlier.*

**[(d)] (e)** *Redemption related and similar debt.*—**Indebtedness of a corporation [incurred or issued] to a shareholder [in] incurred by reason of a distribution made in accordance with this section shall be at least on a parity with the indebtedness of the corporation to its general unsecured creditors except to the extent subordinated by agreement.**

**[(e)] (f)** *Certain subordinated debt.*—**Indebtedness of a corporation, including indebtedness issued as a distribution, shall not be considered a lia-**



bility for purposes of determinations under subsection (b) if its terms provide that payment of principal and interest are made only if and to the extent that payment of a distribution to shareholders could then be made under this section. If [the subordinated] *such* indebtedness is issued as a distribution, each payment of principal or interest shall be treated as a distribution, the effect of which shall be measured on the date the payment is actually made.

*(g) Cross references.—See Subchapter B of Chapter 17 (relating to fiduciary duty) and section 3122 (relating to distributions by insurance corporations).*

§ 1553. Liability for unlawful dividends and other distributions.

(a) Directors.—Except as otherwise provided pursuant to section [1721(e)] 1713 (relating to personal liability of directors), a director who votes for or assents to any dividend or other distribution contrary to the provisions of this subpart or contrary to any restrictions contained in the bylaws shall, if he has not complied with the standard provided in or pursuant to section [1721(b)] 1712 (relating to standard of care[;] *and* justifiable reliance), be liable to the corporation, jointly and severally with all other directors so voting or assenting, for the amount of the dividend that is paid or the value of the other distribution in excess of the amount of the dividend or other distribution that could have been made without a violation of the provisions of this subpart or the restrictions in the bylaws.

\* \* \*

*(e) Contrary articles ineffective.—Except as provided by subsection (a), this section may not be varied by any provision of the articles.*

§ 1554. Financial reports to shareholders.

\* \* \*

(c) Transitional provision.—A bylaw adopted on or before [December 31, 1989,] June 30, 1991, that:

*(1) provides that this section shall not apply to the shares of the corporation or to shares outstanding on a specified or otherwise determinable date; or*

*(2) restricts the right of shareholders to receive financial information in a manner permissible under the Business Corporation Law of 1933; shall be deemed, for the purposes of subsection (b), to be a separate written agreement between the corporation and [each holder of] any person holding shares, option rights or securities having conversion or option rights, or to whom the corporation is otherwise obligated to issue shares [outstanding on the date of adoption of the bylaw for the purposes of subsection (b)] on June 30, 1991, but only with respect to the shares held by the person on that date or to be acquired pursuant to such option rights, securities having conversion or option rights or other obligation of the corporation.*

*(d) Certain provisions of articles ineffective.—This section may not be relaxed by any provision of the articles.*

[d] (e) Cross references.—See [sections] section 2511 (relating to financial reports to shareholders) [and 4145 (relating to applicability of certain safeguards to foreign domiciliary corporations)] and 42 Pa.C.S. § 2503(7) (relating to right of participants to receive counsel fees).

§ 1571. Application and effect of subchapter.

(a) General rule.—Except as otherwise provided in subsection (b), any shareholder of a business corporation shall have the right to dissent from, and to obtain payment of the fair value of his shares in the event of, any corporate action, or to otherwise obtain fair value for his shares, where this **[subpart] part** expressly provides that a shareholder shall have the rights and remedies provided in this subchapter. See:

Section 1906(c) (relating to dissenters rights upon special treatment).

Section 1930 (relating to dissenters rights).

Section 1931(d) (relating to dissenters rights in share exchanges).

Section 1932(c) (relating to dissenters rights in asset transfers).

Section 1952(d) (relating to dissenters rights in division).

Section 1962(c) (relating to dissenters rights in conversion).

Section 2104(b) (relating to procedure).

Section 2324 (relating to corporation option where a restriction on transfer of a security is held invalid).

Section 2325(b) (relating to minimum vote requirement).

Section ~~2704~~ 2704(c) (relating to dissenters rights upon election).

*Section 2705(d) (relating to dissenters rights upon renewal of election).*

Section 2907(a) (relating to proceedings to terminate breach of qualifying conditions).

*Section 7104(b)(3) (relating to procedure).*

(b) Exceptions.—

(1) Except as otherwise provided in paragraph (2), the holders of the shares of any class or series of shares that, at the record date fixed to determine the shareholders entitled to notice of and to vote at the meeting at which a plan specified in any of section 1930, 1931(d), 1932(c) or 1952(d) is to be voted on, are either:

(i) listed on a national securities exchange; or

(ii) held of record by more than 2,000 shareholders;

shall not have the right to obtain payment of the fair value of any such shares under this subchapter.

(2) Paragraph (1) shall not apply to and dissenters rights shall be available without *regard to the exception provided in that paragraph* in the case of:

(i) Shares converted by a plan if the shares are not converted solely into shares of the acquiring, surviving, new or other corporation or solely into such shares and money in lieu of fractional shares.

(ii) Shares of any preferred or special class unless the articles, the plan or the terms of the transaction entitle all shareholders of the class to vote thereon and require for the adoption of the plan or the effectuation of the transaction the affirmative vote of a majority of the votes cast by all shareholders of the class.

*(iii) Shares entitled to dissenters rights under section 1906(c) (relating to dissenters rights upon special treatment).*

(3) The shareholders of a corporation that acquires by purchase, lease, exchange or other disposition all or substantially all of the shares, property

or assets of another corporation by the issuance of shares, obligations or otherwise, with or without assuming the liabilities of the other corporation and with or without the intervention of another corporation or other person, shall not be entitled to the rights and remedies of dissenting shareholders provided in this subchapter regardless of the fact, if it be the case, that the acquisition was accomplished by the issuance of voting shares of the corporation to be outstanding immediately after the acquisition sufficient to elect a majority or more of the directors of the corporation.

\* \* \*

(e) Other statutes.—The procedures of this subchapter shall also be applicable to any transaction described in any statute other than this [subpart] *part* that makes reference to this subchapter for the purpose of granting dissenters rights.

(f) *Certain provisions of articles ineffective.*—*This subchapter may not be relaxed by any provision of the articles.*

(g) Cross references.—See sections 1105 (relating to restriction on equitable relief), 1904 (relating to de facto transaction doctrine abolished) and 2512 (relating to dissenters rights procedure).

#### § 1572. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Corporation.” The issuer of the shares held or owned by the dissenter before the corporate action or the successor by merger, consolidation, division, conversion or otherwise of that issuer. *A plan of division may designate which of the resulting corporations is the successor corporation for the purposes of this subchapter. The successor corporation in a division shall have sole responsibility for payments to dissenters and other liabilities under this subchapter except as otherwise provided in the plan of division.*

\* \* \*

#### § 1576. Failure to comply with notice to demand payment, etc.

(a) Effect of failure of shareholder to act.—A shareholder who fails to *timely* demand payment, or fails (in the case of certificated shares) to *timely* deposit certificates, as required by a notice pursuant to section 1575 (relating to notice to demand payment) shall not have any right under this subchapter to receive payment of the fair value of his shares.

\* \* \*

#### § 1577. Release of restrictions or payment for shares.

\* \* \*

(c) Payment of fair value of shares.—Promptly after effectuation of the proposed corporate action, or upon timely receipt of demand for payment if the corporate action has already been effectuated, the corporation shall either remit to dissenters who have made demand and (if their shares are certificated) have deposited their certificates the amount that the corporation estimates to be the fair value of the shares, or give written notice that no remittance under this section will be made. The remittance or notice shall be accompanied by:

(1) The closing balance sheet and statement of income of the issuer of the shares held or owned by the dissenter for a fiscal year ending not more than 16 months before the date of remittance *or notice* together with the latest available interim financial statements.

(2) A statement of the corporation's estimate of the fair value of the shares.

(3) A notice of the right of the dissenter to demand *payment or supplemental payment, as the case may be*, accompanied by a copy of this subchapter.

(d) Failure to make payment.—If the corporation does not remit the amount of its estimate of the fair value of the shares as provided by subsection (c), it shall return any certificates that have been deposited and release uncertificated shares from any transfer restrictions imposed by reason of the demand for payment. The corporation may make a notation on any such certificate or on the records of the corporation relating to any *such* uncertificated shares that such demand has been made. If shares with respect to which notation has been so made shall be transferred, each new certificate issued therefor or the records relating to any transferred uncertificated shares shall bear a similar notation, together with the name of the original dissenting holder or owner of such shares. A transferee of such shares shall not acquire by such transfer any rights in the corporation other than those that the original dissenter had after making demand for payment of their fair value.

§ 1578. Estimate by dissenter of fair value of shares.

\* \* \*

(b) Effect of failure to file estimate.—Where **[a corporation has remitted payment of its estimated value of a dissenter's shares, and]** the dissenter does not file his own estimate *under subsection (a)* within 30 days after the mailing by the corporation of its remittance *or notice*, the dissenter shall be entitled to no more than the amount *stated in the notice or* remitted to him by the corporation.

§ 1701. Applicability of subchapter.

(a) *General rule.*—The provisions of this subchapter shall apply to every business corporation unless otherwise restricted:

(1) by any other provision of this subpart; or

(2) except with respect to section 1707(a) (relating to exception to requirement of notice), in the bylaws.

(b) *Limitation on certain provisions in the articles.*—*The articles may not relax the statutory rights of shareholders to notice provided in this subchapter.*

§ 1702. Manner of giving notice.

(a) *General rule.*—Whenever written notice is required to be given to any person under the provisions of this subpart or by the articles or bylaws of any business corporation, it may be given to the person either personally or by sending a copy thereof by first class or express mail, postage prepaid, or by telegram (with messenger service specified), telex or TWX (with answerback received) or courier service, charges prepaid, or by **[telecopier] facsimile transmission**, to his address (or to his telex, TWX[, telecopier or telephone]

*or facsimile* number) appearing on the books of the corporation or, in the case of directors, supplied by him to the corporation for the purpose of notice. If the notice is sent by mail, telegraph or courier service, it shall be deemed to have been given to the person entitled thereto when deposited in the United States mail or with a telegraph office or courier service for delivery to that person or, in the case of telex or TWX, when dispatched. A notice of meeting shall specify the place, day and hour of the meeting and any other information required by any other provision of this subpart.

(b) *Adjourned shareholder meetings.*—When a meeting of shareholders is adjourned, it shall not be necessary to give any notice of the adjourned meeting or of the business to be transacted at an adjourned meeting, other than by announcement at the meeting at which the adjournment is taken, unless the board fixes a new record date for the adjourned meeting *or this subpart requires notice of the business to be transacted and such notice has not previously been given.*

(c) *Bulk mail notice.*—*A corporation that is not a closely held corporation and that gives notice by mail of any regular or special meeting of the shareholders (or any other notice required by this subpart or by the articles or bylaws to be given to all shareholders or to all holders of a class or series of shares) at least 20 days prior to the day named for the meeting or any corporate or shareholder action specified in the notice may use any class of post-paid mail.*

(d) *Cross reference.*—*See section 3133 (relating to notice of meetings of members of mutual insurance companies).*

§ 1703. Place and notice of meetings of board of directors.

\* \* \*

(b) *Notice.*—*[Meetings] Regular meetings* of the board of directors may be held upon such notice, if any, as the bylaws may prescribe. Unless otherwise provided in the bylaws, written notice of every *special* meeting of the board of directors shall be given to each director at least five days before the day named for the meeting. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board need be specified in the notice of the meeting.

§ 1704. Place and notice of meetings of shareholders.

\* \* \*

(b) *Notice.*—Written notice of every meeting of the shareholders shall be given by, or at the direction of, the secretary or other authorized person to each shareholder of record entitled to vote at the meeting at least:

(1) ten days prior to the day named for a meeting called to consider a fundamental change under Chapter 19 (relating to fundamental changes); or

(2) five days prior to the day named for the meeting in any other case.

If the secretary or other authorized person neglects or refuses to give notice of a meeting, the person or persons calling the meeting may do so.

(c) *Contents.*—In the case of a special meeting of shareholders, the notice shall specify the general nature of the business to be transacted, *and in all cases the notice shall comply with the express requirements of this subpart. The corporation shall not have a duty to augment the notice.*

§ 1705. Waiver of notice.

(a) **Written waiver.**—Whenever any written notice is required to be given under the provisions of this subpart or the articles or bylaws of any business corporation, a waiver thereof in writing, signed by the person or persons entitled to the notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of the notice. **[Except as otherwise required by this subsection, neither]** *Neither* the business to be transacted at, nor the purpose of, a meeting need be specified in the waiver of notice of the meeting. **[In the case of a special meeting of shareholders, the waiver of notice shall specify the general nature of the business to be transacted.]**

\* \* \*

§ 1708. Use of conference telephone and similar equipment.

**[One]** *Except as otherwise provided in the bylaws, one* or more persons may participate in a meeting of the incorporators, the board of directors or the shareholders of a business corporation by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this section shall constitute presence in person at the meeting.

## SUBCHAPTER B FIDUCIARY DUTY

Sec.

- 1711. Alternative provisions.
- 1712. Standard of care and justifiable reliance.
- 1713. Personal liability of directors.
- 1714. Notation of dissent.
- 1715. Exercise of powers generally.
- 1716. Alternative standard.
- 1717. Limitation on standing.
- 1718. Inconsistent articles ineffective.

§ 1711. Alternative provisions.

(a) **General rule.**—Section 1716 (relating to alternative standard) shall not be applicable to any business corporation to which section 1715 (relating to exercise of powers generally) is applicable.

(b) **Exceptions.**—Section 1715 shall be applicable to:

(1) Any registered corporation described in section 2502(1)(i) (relating to registered corporation status), except a corporation:

(i) the bylaws of which explicitly provide that section 1715 or corresponding provisions of prior law shall not be applicable to the corporation by amendment adopted by the board of directors on or before July 26, 1990, in the case of a corporation that was a registered corporation described in section 2502(1)(i) on April 27, 1990; or

(ii) in any other case, the articles of which explicitly provide that section 1715 or corresponding provisions of prior law shall not be applicable to the corporation by a provision included in the original articles, or by an articles amendment adopted on or before 90 days after the cor-

poration first becomes a registered corporation described in section 2502(1)(i).

(2) Any registered corporation described solely in section 2502(1)(ii), except a corporation:

(i) the bylaws of which explicitly provide that section 1715 or corresponding provisions of prior law shall not be applicable to the corporation by amendment adopted by the board of directors on or before April 27, 1991, in the case of a corporation that was a registered corporation described solely in section 2502(1)(ii) on April 27, 1990; or

(ii) in any other case, the articles of which explicitly provide that section 1715 or corresponding provisions of prior law shall not be applicable to the corporation by a provision included in the original articles, or by an articles amendment adopted on or before one year after the corporation first becomes a registered corporation described in section 2502(1)(ii).

(3) Any business corporation that is not a registered corporation described in section 2502(1), except a corporation:

(i) the bylaws of which explicitly provide that section 1715 or corresponding provisions of prior law shall not be applicable to the corporation by amendment adopted by the board of directors on or before April 27, 1991, in the case of a corporation that was a business corporation on April 27, 1990; or

(ii) in any other case, the articles of which explicitly provide that section 1715 or corresponding provisions of prior law shall not be applicable to the corporation by a provision included in the original articles, or by an articles amendment adopted on or before one year after the corporation first becomes a business corporation.

(c) Transitional provision.—A provision of the articles or bylaws adopted pursuant to section 511(b) (relating to alternative provisions) at a time when the corporation was not a business corporation that provides that section 515 (relating to exercise of powers generally) or corresponding provisions of prior law shall not be applicable to the corporation shall be deemed to provide that section 1715 shall not be applicable to the corporation.

§ 1712. Standard of care and justifiable reliance.

(a) Directors.—A director of a business corporation shall stand in a fiduciary relation to the corporation and shall perform his duties as a director, including his duties as a member of any committee of the board upon which he may serve, in good faith, in a manner he reasonably believes to be in the best interests of the corporation and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. In performing his duties, a director shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

(1) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented.

(2) Counsel, public accountants or other persons as to matters which the director reasonably believes to be within the professional or expert competence of such person.

(3) A committee of the board upon which he does not serve, duly designated in accordance with law, as to matters within its designated authority, which committee the director reasonably believes to merit confidence.

(b) Effect of actual knowledge.—A director shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that would cause his reliance to be unwarranted.

(c) Officers.—Except as otherwise provided in the bylaws, an officer shall perform his duties as an officer in good faith, in a manner he reasonably believes to be in the best interests of the corporation and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. A person who so performs his duties shall not be liable by reason of having been an officer of the corporation.

§ 1713. Personal liability of directors.

(a) General rule.—If a bylaw adopted by the shareholders of a business corporation so provides, a director shall not be personally liable, as such, for monetary damages for any action taken unless:

(1) the director has breached or failed to perform the duties of his office under this subchapter; and

(2) the breach or failure to perform constitutes self-dealing, willful misconduct or recklessness.

(b) Exceptions.—

(1) Subsection (a) shall not apply to:

(i) the responsibility or liability of a director pursuant to any criminal statute; or

(ii) the liability of a director for the payment of taxes pursuant to Federal, State or local law.

(2) The articles may not provide greater exoneration from liability for directors than that permitted by this section.

(c) Cross reference.—See 42 Pa.C.S. § 8332.5 (relating to corporate representatives).

§ 1714. Notation of dissent.

A director of a business corporation who is present at a meeting of its board of directors, or of a committee of the board, at which action on any corporate matter is taken on which the director is generally competent to act, shall be presumed to have assented to the action taken unless his dissent is entered in the minutes of the meeting or unless he files his written dissent to the action with the secretary of the meeting before the adjournment thereof or transmits the dissent in writing to the secretary of the corporation immediately after the adjournment of the meeting. The right to dissent shall not apply to a director who voted in favor of the action. Nothing in this subchapter shall bar a director from asserting that minutes of the meeting incorrectly omitted his dissent if, promptly upon receipt of a copy of such minutes, he notifies the secretary in writing of the asserted omission or inaccuracy.



**§ 1715. Exercise of powers generally.**

(a) **General rule.**—In discharging the duties of their respective positions, the board of directors, committees of the board and individual directors of a business corporation may, in considering the best interests of the corporation, consider to the extent they deem appropriate:

(1) The effects of any action upon any or all groups affected by such action, including shareholders, employees, suppliers, customers and creditors of the corporation, and upon communities in which offices or other establishments of the corporation are located.

(2) The short-term and long-term interests of the corporation, including benefits that may accrue to the corporation from its long-term plans and the possibility that these interests may be best served by the continued independence of the corporation.

(3) The resources, intent and conduct (past, stated and potential) of any person seeking to acquire control of the corporation.

(4) All other pertinent factors.

(b) **Consideration of interests and factors.**—The board of directors, committees of the board and individual directors shall not be required, in considering the best interests of the corporation or the effects of any action, to regard any corporate interest or the interests of any particular group affected by such action as a dominant or controlling interest or factor. The consideration of interests and factors in the manner described in this subsection and in subsection (a) shall not constitute a violation of section 1712 (relating to standard of care and justifiable reliance).

(c) **Specific applications.**—In exercising the powers vested in the corporation, including, without limitation, those powers pursuant to section 1502 (relating to general powers), and in no way limiting the discretion of the board of directors, committees of the board and individual directors pursuant to subsections (a) and (b), the fiduciary duty of directors shall not be deemed to require them:

(1) to redeem any rights under, or to modify or render inapplicable, any shareholder rights plan, including, but not limited to, a plan adopted pursuant or made subject to section 2513 (relating to disparate treatment of certain persons);

(2) to render inapplicable, or make determinations under, the provisions of Subchapter E (relating to control transactions), F (relating to business combinations), G (relating to control-share acquisitions) or H (relating to disgorgement by certain controlling shareholders following attempts to acquire control) of Chapter 25 or under any other provision of this title relating to or affecting acquisitions or potential or proposed acquisitions of control; or

(3) to act as the board of directors, a committee of the board or an individual director solely because of the effect such action might have on an acquisition or potential or proposed acquisition of control of the corporation or the consideration that might be offered or paid to shareholders in such an acquisition.

(d) **Presumption.**—Absent breach of fiduciary duty, lack of good faith or self-dealing, any act as the board of directors, a committee of the board or an individual director shall be presumed to be in the best interests of the corporation. In assessing whether the standard set forth in section 1712 has been satisfied, there shall not be any greater obligation to justify, or higher burden of proof with respect to, any act as the board of directors, any committee of the board or any individual director relating to or affecting an acquisition or potential or proposed acquisition of control of the corporation than is applied to any other act as a board of directors, any committee of the board or any individual director. Notwithstanding the preceding provisions of this subsection, any act as the board of directors, a committee of the board or an individual director relating to or affecting an acquisition or potential or proposed acquisition of control to which a majority of the disinterested directors shall have assented shall be presumed to satisfy the standard set forth in section 1712, unless it is proven by clear and convincing evidence that the disinterested directors did not assent to such act in good faith after reasonable investigation.

(e) **Definition.**—The term “disinterested director” as used in subsection (d) and for no other purpose means:

(1) A director of the corporation other than:

(i) A director who has a direct or indirect financial or other interest in the person acquiring or seeking to acquire control of the corporation or who is an affiliate or associate, as defined in section 2552 (relating to definitions), of, or was nominated or designated as a director by, a person acquiring or seeking to acquire control of the corporation.

(ii) Depending on the specific facts surrounding the director and the act under consideration, an officer or employee or former officer or employee of the corporation.

(2) A person shall not be deemed to be other than a disinterested director solely by reason of any or all of the following:

(i) The ownership by the director of shares of the corporation.

(ii) The receipt as a holder of any class or series of any distribution made to all owners of shares of that class or series.

(iii) The receipt by the director of director’s fees or other consideration as a director.

(iv) Any interest the director may have in retaining the status or position of director.

(v) The former business or employment relationship of the director with the corporation.

(vi) Receiving or having the right to receive retirement or deferred compensation from the corporation due to service as a director, officer or employee.

(f) **Cross reference.**—See section 1711 (relating to alternative provisions).

§ 1716. **Alternative standard.**

(a) **General rule.**—In discharging the duties of their respective positions, the board of directors, committees of the board and individual directors of a

business corporation may, in considering the best interests of the corporation, consider the effects of any action upon employees, upon suppliers and customers of the corporation and upon communities in which offices or other establishments of the corporation are located, and all other pertinent factors. The consideration of those factors shall not constitute a violation of section 1712 (relating to standard of care and justifiable reliance).

(b) Presumption.—Absent breach of fiduciary duty, lack of good faith or self-dealing, actions taken as a director shall be presumed to be in the best interests of the corporation.

(c) Cross reference.—See section 1711 (relating to alternative provisions).

**§ 1717. Limitation on standing.**

The duty of the board of directors, committees of the board and individual directors under section 1712 (relating to standard of care and justifiable reliance) is solely to the business corporation and may be enforced directly by the corporation or may be enforced by a shareholder, as such, by an action in the right of the corporation, and may not be enforced directly by a shareholder or by any other person or group. Notwithstanding the preceding sentence, sections 1715(a) and (b) (relating to exercise of powers generally) and 1716(a) (relating to alternative standard) do not impose upon the board of directors, committees of the board and individual directors any legal or equitable duties, obligations or liabilities or create any right or cause of action against, or basis for standing to sue, the board of directors, committees of the board and individual directors.

**§ 1718. Inconsistent articles ineffective.**

Except as otherwise expressly provided in this subchapter, the articles may not contain any provision that relaxes, restricts, is inconsistent with or supersedes any provision of this subchapter. The penultimate sentence of section 1306(b) (relating to other provisions authorized) shall not apply to this subchapter.

**SUBCHAPTER [B] C  
DIRECTORS AND OFFICERS**

**§ 1721. Board of directors.**

*Unless otherwise provided by statute or in a bylaw adopted by the shareholders, all powers enumerated in section 1502 (relating to general powers) and elsewhere in this subpart or otherwise vested by law in a business corporation shall be exercised by or under the authority of, and the business and affairs of every business corporation shall be managed under the direction of, a board of directors. If any such provision is made in the bylaws, the powers and duties conferred or imposed upon the board of directors by this subpart shall be exercised or performed to such extent and by such person or persons as shall be provided in the bylaws. Persons upon whom the liabilities of directors are imposed by this section shall to that extent be entitled to the rights and immunities conferred by or pursuant to this part and other provisions of law upon directors of a corporation.*

§ 1722. Qualifications of directors.

(a) *General rule.*—Each director of a business corporation shall be a natural person of full age who, unless otherwise restricted in the bylaws, need not be a resident of this Commonwealth or a shareholder of the corporation. Except as otherwise provided in this section, the qualifications of directors may be prescribed in the bylaws.

(b) *Cross reference.*—*See section 3131 (relating to directors).*

§ 1723. Number of directors.

(a) *General rule.*—The board of directors of a business corporation shall consist of one or more members. The number of directors shall be fixed by, or in the manner provided in, the bylaws. If not so fixed, the number of directors shall be the same as that stated in the articles or three if no number is so stated.

(b) *Cross reference.*—*See section 3131 (relating to directors).*

§ 1724. Term of office of directors.

\* \* \*

(b) *Classified board of directors.*—**[If] Except as otherwise provided in the articles, if the directors are classified in respect of the time for which they shall severally hold office:**

- (1) Each class shall be as nearly equal in number as possible.
- (2) The term of office of at least one class shall expire in each year.
- (3) The members of a class shall not be elected for a longer period than four years.

§ 1725. Selection of directors.

(a) *General rule.*—Except as otherwise provided in this section, directors of a business corporation, other than those constituting the first board of directors, shall be elected by the shareholders. *A bylaw adopted by the shareholders may classify the directors with respect to the shareholders who exercise the power to elect directors.*

(b) *Vacancies.*—

(1) Except as otherwise provided in the bylaws:

(i) Vacancies in the board of directors, including vacancies resulting from an increase in the number of directors, may be filled by a majority vote of the remaining members of the board though less than a quorum, or by a sole remaining director, and each person so selected shall be a director to serve for the balance of the unexpired term unless otherwise restricted in the bylaws.

(ii) When one or more directors resign from the board effective at a future date, the directors then in office, including those who have so resigned, shall have power by the applicable vote to fill the vacancies, the vote thereon to take effect when the resignations become effective.

(2) In the case of a corporation having a **[classified board of directors] board classified as permitted by section 1724(b) (relating to classified board of directors)**, any director chosen to fill a vacancy, including a vacancy resulting from an increase in the number of directors, shall hold office until the next selection of the class for which such director has been chosen, and until his successor has been selected and qualified or until his earlier death, resignation or removal.

\* \* \*

(d) **Cross [reference] references.**—See the definition of “shareholder” in section 1103 (relating to definitions) *and section 1758(c) (relating to cumulative voting)*.

§ 1726. Removal of directors.

(a) Removal by the shareholders.—

\* \* \*

(5) *The articles may not prohibit the removal of directors by the shareholders for cause.*

\* \* \*

(c) Removal by the court.—Upon application of any shareholder or director, the court may remove from office any director in case of fraudulent or dishonest acts, or gross abuse of authority or discretion with reference to the corporation, or for any other proper cause, and may bar from office any director so removed for a period prescribed by the court. The corporation shall be made a party to the action and as a prerequisite to the maintenance of an action under this subsection a shareholder shall comply with Subchapter [E] F (relating to derivative actions).

\* \* \*

(e) **Cross reference.**—See section 1106(b)(4) (relating to uniform application of subpart).

§ 1732. Officers.

\* \* \*

(c) **Cross references.**—See sections 1110 (relating to annual report information), 1712(c) (relating to officers) and 3132 (relating to officers).

#### SUBCHAPTER [C] D INDEMNIFICATION

§ 1746. Supplementary coverage.

(a) **General rule.**—The indemnification and advancement of expenses provided by, or granted pursuant to, the other sections of this subchapter shall not be deemed exclusive of any other rights to which a person seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of shareholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding that office. [Sections] *Section 1728 (relating to interested directors or officers; quorum) and [1770 (relating to interested shareholders)], in the case of a registered corporation, section 2538 (relating to approval of transactions with interested shareholders)* shall be applicable to any bylaw, contract or transaction authorized by the directors under this section. A corporation may create a fund of any nature, which may, but need not be, under the control of a trustee, or otherwise secure or insure in any manner its indemnification obligations, whether arising under or pursuant to this section or otherwise.

(b) When indemnification is not to be made.—Indemnification pursuant to subsection (a) shall not be made in any case where the act or failure to act giving rise to the claim for indemnification is determined by a court to have

constituted willful misconduct or recklessness. *The articles may not provide for indemnification in the case of willful misconduct or recklessness.*

\* \* \*

[(d) Cross references.—See section 513 (relating to nonexclusivity and supplementary coverage) and 42 Pa.C.S. § 8365 (relating to nonexclusivity and supplementary coverage).]

§ 1747. Power to purchase insurance.

[(a) General rule.—]Unless otherwise restricted in its bylaws, a business corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a representative of the corporation or is or was serving at the request of the corporation as a representative of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the corporation would have the power to indemnify him against that liability under the provisions of this subchapter. Such insurance is declared to be consistent with the public policy of this Commonwealth.

[(b) Cross references.—See section 513 (relating to nonexclusivity and supplementary coverage) and 42 Pa.C.S. § 8365 (relating to nonexclusivity and supplementary coverage).]

#### SUBCHAPTER [D] E SHAREHOLDERS

§ 1755. Time of holding meetings of shareholders.

(a) Regular meetings.—The bylaws of a business corporation may provide for the number and the time of meetings of shareholders[, but]. *Except as otherwise provided in the articles*, at least one meeting of the shareholders shall be held in each calendar year for the election of directors at such time as shall be provided in or fixed pursuant to authority granted by the bylaws. Failure to hold the annual or other regular meeting at the designated time shall not work a dissolution of the corporation or affect otherwise valid corporate acts. If the annual or other regular meeting is not called and held within six months after the designated time, any shareholder may call the meeting at any time thereafter.

\* \* \*

(d) *Cross reference.—See section 1106(b)(4) (relating to uniform application of subpart).*

§ 1756. Quorum.

\* \* \*

(c) Cross [reference] references.—See [section] sections 2523 (relating to quorum at shareholder meetings) and 3134 (relating to quorum at shareholder or member meetings).

§ 1757. Action by shareholders.

(a) General rule.—Except as otherwise provided in this subpart or in a bylaw adopted by the shareholders, whenever any corporate action is to be taken by vote of the shareholders of a business corporation, it shall be authorized [by] *upon receiving the affirmative vote of a majority of the votes cast*

**[at a duly organized meeting of shareholders by the holders of shares] by all shareholders entitled to vote thereon and, if any shareholders are entitled to vote thereon as a class, upon receiving the affirmative vote of a majority of the votes cast by the shareholders entitled to vote as a class.**

\* \* \*

§ 1758. Voting rights of shareholders.

(a) General rule.—Unless otherwise provided in the articles, every shareholder of a business corporation shall be entitled to one vote for every share standing in his name on the books of the corporation. The articles may restrict the number of votes that a single holder or beneficial owner, or such a group of holders or owners as the bylaws may define, of shares of any class or series may directly or indirectly cast in the aggregate for the election of directors or on any other matter coming before the shareholders[.] **on the basis of any facts or circumstances that are not manifestly unreasonable, including without limitation:**

**(1) the number of shares of any class or series held by such single holder or beneficial owner or group of holders or owners; or**

**(2) the length of time shares of any class or series have been held by such single holder or beneficial owner or group of holders or owners.**

(b) Procedures.—If the bylaws provide a fair and reasonable procedure for the nomination of candidates for any office, only candidates who have been duly nominated in accordance therewith shall be eligible for election. Unless otherwise restricted in the bylaws, in elections for directors, voting need not be by ballot[**, except upon demand made by a shareholder entitled to vote at the election and] unless required by vote of the shareholders** before the voting **for election of directors** begins. The candidates receiving the highest number of votes from each class or group of classes, if any, entitled to elect directors separately up to the number of directors to be elected by the class or group of classes shall be elected. If at any meeting of shareholders, directors of more than one class are to be elected, each class of directors shall be elected in a separate election.

\* \* \*

§ 1759. Voting and other action by proxy.

\* \* \*

(b) **[Minimum requirements] Execution and filing.**—Every proxy shall be executed in writing by the shareholder or by his duly authorized attorney-in-fact and filed with the secretary of the corporation. **A telegram, telex, cablegram, datagram or similar transmission from a shareholder or attorney-in-fact, or a photographic, facsimile or similar reproduction of a writing executed by a shareholder or attorney-in-fact:**

**(1) may be treated as properly executed for purposes of this subsection; and**

**(2) shall be so treated if it sets forth a confidential and unique identification number or other mark furnished by the corporation to the shareholder for the purposes of a particular meeting or transaction.**

(c) **Revocation.**—A proxy, unless coupled with an interest, shall be revocable at will, notwithstanding any other agreement or any provision in the

proxy to the contrary, but the revocation of a proxy shall not be effective until written notice thereof has been given to the secretary of the corporation. An unrevoked proxy shall not be valid after three years from the date of its execution unless a longer time is expressly provided therein. A proxy shall not be revoked by the death or incapacity of the maker unless, before the vote is counted or the authority is exercised, written notice of the death or incapacity is given to the secretary of the corporation.

[(c)] (d) Proxy coupled with an interest.—As used in this section, the term “proxy coupled with an interest” includes:

- (1) a vote pooling or similar arrangement among shareholders;
- (2) an agreement permitted by section 1768(b) (relating to other agreements); and
- (3) an unrevoked proxy in favor of an existing or potential creditor of a shareholder.

A proxy may be made irrevocable regardless of whether the interest with which it is coupled is an interest in the share itself or an interest in the corporation generally.

(e) *Cross reference.*—See section 3135 (relating to proxies of members of mutual insurance companies).

§ 1763. Determination of shareholders of record.

\* \* \*

(b) Determination when a record date is not fixed.—Unless otherwise provided in the bylaws, if a record date is not fixed:

\* \* \*

- (2) The record date for determining shareholders entitled to:
  - (i) express consent or dissent to corporate action in writing without a meeting, when prior action by the board of directors is not necessary;
  - (ii) call a special meeting of the shareholders; or
  - (iii) propose an amendment of the articles;

shall be at the close of business on the day on which the first written consent or dissent, request for a special meeting or petition proposing an amendment of the articles is filed with the secretary of the corporation.

\* \* \*

§ 1765. Judges of election.

(a) *General rule.*—Unless otherwise provided in a bylaw adopted by the shareholders:

- (1) Appointment.—In advance of any meeting of shareholders of a business corporation, the board of directors may appoint judges of election, who need not be shareholders, to act at the meeting or any adjournment thereof. If judges of election are not so appointed, the presiding officer of the meeting may, and on the request of any shareholder shall, appoint judges of election at the meeting. The number of judges shall be one or three. A person who is a candidate for office to be filled at the meeting shall not act as a judge.
- (2) Vacancies.—In case any person appointed as a judge fails to appear or fails or refuses to act, the vacancy may be filled by appointment



made by the board of directors in advance of the convening of the meeting or at the meeting by the presiding officer thereof.

(3) **Duties.**—The judges of election shall determine the number of shares outstanding and the voting power of each, the shares represented at the meeting, the existence of a quorum, the authenticity, validity and effect of proxies, receive votes or ballots, hear and determine all challenges and questions in any way arising in connection with the right to vote, count and tabulate all votes, determine the result and do such acts as may be proper to conduct the election or vote with fairness to all shareholders. The judges of election shall perform their duties impartially, in good faith, to the best of their ability and as expeditiously as is practical. If there are three judges of election, the decision, act or certificate of a majority shall be effective in all respects as the decision, act or certificate of all.

(4) **Report.**—On request of the presiding officer of the meeting, or of any shareholder, the judges shall make a report in writing of any challenge or question or matter determined by them, and execute a certificate of any fact found by them. Any report or certificate made by them shall be *prima facie* evidence of the facts stated therein.

(b) **Cross reference.**—*See section 3136 (relating to judges of election).*

§ 1766. Consent of shareholders in lieu of meeting.

\* \* \*

(b) **Partial written consent.**—If the [articles (or, in the case of a nonregistered corporation, the) bylaws]] so provide, any action required or permitted to be taken at a meeting of the shareholders or of a class of shareholders may be taken without a meeting upon the written consent of shareholders who would have been entitled to cast the minimum number of votes that would be necessary to authorize the action at a meeting at which all shareholders entitled to vote thereon were present and voting. The consents shall be filed with the secretary of the corporation. The action shall not become effective until after at least ten days' written notice of the action has been given to each shareholder entitled to vote thereon who has not consented thereto. See section 2524 (relating to consent of shareholders in lieu of meeting).

§ 1767. Appointment of custodian of corporation on deadlock or other cause.

(a) **General rule.**—[Upon] *Except as provided in subsection (b), upon application of any shareholder, the court may appoint one or more persons to be custodians of and for any business corporation when it is made to appear that:*

\* \* \*

(3) the conditions specified in section [1981(1)] *1981(a)(1), (2) or (3) (relating to proceedings upon application of shareholder or director), other than that it is beneficial to the interests of the shareholders that the corporation be wound up and dissolved, exist with respect to the corporation.*

(b) [Exception] *Exceptions.*—

(1) The court shall not appoint a custodian to resolve a deadlock if the shareholders by agreement or otherwise have provided for the appointment of a provisional director or other means for the resolution of the deadlock, but the court shall enforce the remedy so provided if appropriate.

(2) *Subsection (a)(2) shall not be applicable:*

(i) *to a corporation that has at the time a person holding or owning 5% or more of the outstanding shares of any class of the corporation that is:*

(A) *a registered corporation or a foreign corporation for profit described in section 4102(b) (relating to registered corporation exclusions); or*

(B) *a person (other than a natural person) that is engaged principally in the business of making equity investments in other businesses; or*

(ii) *with respect to any matter involving a person described in subparagraph (i) that is or was a holder or owner of shares of the corporation.*

\* \* \*

(d) *Contrary provisions of the articles.—*

(1) *The articles may not contain a provision that varies or is otherwise inconsistent with subsection (b)(2).*

(2) *A provision of the articles that varies or is otherwise inconsistent with any provision of this section shall not be effective unless it is included in the original articles or in an amendment adopted by the affirmative vote of all shareholders of the corporation whether or not otherwise entitled to vote thereon.*

(e) *Cross references.—See sections 2525 (relating to appointment of custodian) and 3137 (relating to appointment of custodian).*

#### SUBCHAPTER [E] F DERIVATIVE ACTIONS

#### SUBCHAPTER [F] G JUDICIAL SUPERVISION OF CORPORATE ACTION

§ 1791. Corporate action subject to subchapter.

(a) General rule.—This subchapter shall apply to and the term “corporate action” in this subchapter shall mean any of the following actions:

(1) The election, appointment, designation or other selection and the suspension or removal of directors or officers of a business corporation.

(2) The taking of any action on any matter that is required under this subpart or under any other provision of law to be, or that under the bylaws may be, submitted for action to the shareholders, directors or officers of a business corporation.

(b) Cross reference.—See section [4145 (relating to applicability of certain safeguards to foreign domiciliary corporations)] 3138 (relating to judicial supervision of corporate action).

§ 1792. Proceedings prior to corporate action.

\* \* \*

(c) Cross reference.—See section [4145 (relating to applicability of certain safeguards to foreign domiciliary corporations)] 3138 (relating to judicial supervision of corporate action).

§ 1793. Review of contested corporate action.

\* \* \*

(c) Cross reference.—See section [4145 (relating to applicability of certain safeguards to foreign domiciliary corporations)] 3138 (relating to judicial supervision of corporate action).

§ 1901. Omission of certain provisions from filed plans.

(a) *General rule.*—A plan as filed in the Department of State under any provision of this chapter may omit all provisions of the plan except provisions, if any[,]:

(1) that are intended to amend or constitute the operative provisions of the articles of a corporation as in effect subsequent to the effective date of the plan[, if]; or

(2) that allocate or specify the respective assets and liabilities of the resulting corporations, in the case of a plan of division.

(b) *Availability of full plan.*—If any of the provisions of a plan are omitted from the plan as filed in the department, the articles of amendment, merger, consolidation, exchange, division or conversion shall state that the full text of the plan is on file at the principal place of business of the reclassifying, surviving or new or a resulting corporation and shall state the address thereof. A corporation that takes advantage of this section shall furnish a copy of the full text of the plan, on request and without cost, to any shareholder of any corporation that was a party to the plan and, unless all parties to the plan were closely held corporations, on request and at cost to any other person.

§ 1903. Bankruptcy or insolvency proceedings.

(a) *General rule.*—Whenever a business corporation is insolvent or in financial difficulty, the board of directors may, by resolution and without the consent of the shareholders, authorize and designate the officers of the corporation to execute a deed of assignment for the benefit of creditors, or file a voluntary petition in bankruptcy, or file an answer consenting to the appointment of a receiver upon a complaint in the nature of an equity action filed by creditors or shareholders, or[, if insolvent,] file an answer to an involuntary petition in bankruptcy admitting the [insolvency of the corporation and its willingness to be adjudged a bankrupt on that ground] willingness of the corporation to have relief ordered against it.

(b) *Bankruptcy proceedings.*—A business corporation may participate in a case and proceedings under and in the manner provided by the Bankruptcy Code (11 U.S.C. § 101 et seq.) notwithstanding any contrary provision of [this subpart or of] its articles or bylaws[.] or this subpart, other than section 103 (relating to subordination of title to regulatory laws). The corporation shall have full power and authority to put into effect and carry out a plan of reorganization and the decrees and orders of the court or judge, and

*may take any proceeding and do any act provided in the plan or directed by such decrees and orders, without further action by its directors or shareholders. Such power and authority may be exercised, and such proceedings and acts may be taken, as may be directed by such plan or decrees or orders, by designated officers of the corporation or by a trustee appointed by the court or judge, with the effect as if exercised and taken by unanimous action of the directors and shareholders of the corporation. Without limiting the generality or effect of the foregoing, the corporation may:*

*(1) alter, amend or repeal its bylaws;*

*(2) constitute or reconstitute and classify or reclassify its board of directors and name, constitute or appoint directors and officers in place of or in addition to all or some of the directors or officers then in office;*

*(3) amend its articles of incorporation, including, without limitation, for the purpose of:*

*(i) canceling or modifying the relative rights or preferences of any or all authorized classes or series of shares, whether or not any shares thereof are outstanding;*

*(ii) providing that any of Subchapter E (relating to control transactions), F (relating to business combinations), G (relating to control-share acquisitions) or H (relating to disgorgement by certain controlling shareholders following attempts to acquire control) of Chapter 25 shall not be applicable to the corporation, whether or not the amendment is adopted in conformance with the procedures specified in those subchapters, which amendment may take effect immediately without regard to any passage of time otherwise required by those subchapters; or*

*(iii) otherwise altering, amending or repealing any provision of the articles or bylaws notwithstanding any provision therein that the articles or bylaws may be altered, amended or repealed only under certain conditions or only upon receiving the approval of a specified number or percentage of votes of shareholders or of a class of shareholders;*

*(4) be dissolved, transfer all or part of its assets, merge, consolidate, participate in a share exchange, divide or convert to a nonprofit corporation, as permitted by this chapter, but in any such case a shareholder shall not be entitled to dissenters rights with respect to his shares;*

*(5) authorize and fix the terms, manner and conditions of the issuance of obligations, whether or not convertible into shares of any class or series, or bearing warrants or other evidence of optional rights to purchase or subscribe for shares of any class or series; or*

*(6) lease its property and franchises to any person.*

*(c) Cross reference.—See the definition of “officer” in section 1103 (relating to definitions).*

§ 1905. Proposal of fundamental transactions.

Where any provision of this chapter requires that an amendment of the articles [or], a plan or the dissolution of a business corporation be proposed or approved by action of the board of directors, that requirement shall be construed to authorize and be satisfied by the written agreement or consent of all of the shareholders of [a business] the corporation entitled to vote thereon.

§ 1906. Special treatment of holders of shares of same class or series.

(a) General rule.—**[An]** *Except as otherwise restricted in the articles, an amendment or plan may contain a provision classifying the holders of shares of a class or series into one or more separate groups by reference to any facts or circumstances that are not manifestly unreasonable and providing mandatory treatment for shares of the class or series held by particular shareholders or groups of shareholders that differs materially from the treatment accorded other shareholders or groups of shareholders holding shares of the same class or series (including a provision modifying or rescinding rights previously created under this section) if:*

(1) (i) *such provision is specifically authorized by a majority of the votes cast by all shareholders entitled to vote on the amendment or plan, as well as by a majority of the votes cast by any class or series of shares [whose rights are diminished thereby] any of the shares of which are so classified into groups, whether or not such class or series would otherwise be entitled to vote on the amendment or plan; and*

(ii) *the provision voted on specifically enumerates the type and extent of the special treatment authorized; or*

(2) *under all the facts and circumstances, a court of competent jurisdiction finds such special treatment is undertaken in good faith, after reasonable deliberation and is in the best interest of the corporation.*

(b) Statutory voting rights upon special treatment.—*Except as provided in subsection (c), if an amendment or plan contains a provision for special treatment, each [subgroup] group of [the] holders of any outstanding shares of a class or series who are to receive the same special treatment under the amendment or plan shall be entitled to vote as a special class in respect to the plan regardless of any limitations stated in the articles or bylaws on the voting rights of any class or series.*

\* \* \*

(d) **[Exception] Exceptions.**—*This section shall not apply to [the]:*

(1) *The creation or issuance of securities, contracts, warrants or other instruments evidencing any shares, option rights, securities having conversion or option rights or obligations authorized by section 2513 (relating to disparate treatment of certain persons).*

(2) *A provision of an amendment or plan that offers to all holders of shares of a class or series the same option to elect certain treatment.*

(3) *An amendment or plan that contains an express provision that this section shall not apply or that fails to contain an express provision that this section shall apply. The shareholders of a corporation that proposes an amendment or plan to which this section is not applicable by reason of this paragraph shall have the remedies contemplated by section 1105 (relating to restriction on equitable relief).*

§ 1911. Amendment of articles authorized.

(a) General rule.—*A business corporation, in the manner provided in this subchapter, may from time to time amend its articles for one or more of the following purposes:*

(1) To adopt a new name, subject to the restrictions provided in this subpart.

(2) To modify any provision of the articles relating to its term of existence.

(3) To change, add to or diminish its purposes or to set forth different or additional purposes.

(4) To cancel or otherwise affect the right of holders of the shares of any class or series to receive dividends that have accrued but have not been declared or to otherwise effect a reclassification of or otherwise affect the substantial rights of the holders of any shares, *including, without limitation, by providing special treatment of shares held by any shareholder or group of shareholders as authorized by, and subject to the provisions of, section 1906 (relating to special treatment of holders of shares of same class or series).*

(5) To restate the articles in their entirety.

(6) In any and as many other respects as desired.

\* \* \*

*(c) Cross reference.—See section 1521(b)(1)(i) (relating to provisions specifically authorized).*

§ 1912. Proposal of amendments.

(a) General rule.—Every amendment of the articles of a business corporation shall be proposed:

(1) by the adoption by the board of directors of a resolution setting forth the proposed amendment; or

(2) unless otherwise provided in the articles, by petition of shareholders entitled to cast at least 10% of the votes that all shareholders are entitled to cast thereon, setting forth the proposed amendment, which petition shall be directed to the board of directors and filed with the secretary of the corporation.

Except where the approval of the shareholders is unnecessary under this subchapter, the board of directors shall direct that the proposed amendment be submitted to a vote of the shareholders entitled to vote thereon. An amendment proposed pursuant to paragraph (2) shall be submitted to a vote either at the next annual meeting held not earlier than 120 days after the amendment is proposed or at a special meeting of the shareholders called for that purpose by the shareholders. See [section] *sections 1106(b)(4) (relating to uniform application of subpart) and 2535 (relating to proposal of amendment to articles).*

\* \* \*

§ 1914. Adoption of amendments.

\* \* \*

(b) Statutory voting rights.—Except as provided in [subsection (c)] *this subpart*, if a proposed amendment would:

(1) authorize the board of directors to fix and determine the relative rights and preferences, as between series, of any preferred or special class;

(2) make any change in the preferences, limitations or special rights (*other than preemptive rights or the right to vote cumulatively*) of the shares of a class or series adverse to the class or series;

(3) **increase the number of authorized shares of a class or series unless otherwise provided in original articles of incorporation filed after January 1, 1969, or in an amendment to the articles which created the class or series filed after January 1, 1969, or in any amendment to the articles which was adopted by a majority of the votes cast by all shareholders of the class or series;**

(4) **authorize a new class or series of shares having a preference as to dividends or assets which is senior to the shares of a class or series; or**

**[(5)] (4) increase the number of authorized shares of any class or series having a preference as to dividends or assets which is senior in any respect to the shares of a class or series;**

then the holders of the outstanding shares of the class or series shall be entitled to vote as a class in respect to the amendment regardless of any limitations stated in the articles or bylaws on the voting rights of any class *or series*.

(c) Adoption by board of directors.—Unless otherwise restricted in the articles, an amendment of articles shall not require the approval of the shareholders of the corporation if:

\* \* \*

(2) the amendment is restricted to **[a change in] any of the following:**

**(i) changing the corporate name [or to provide];**

**(ii) providing for perpetual existence [or to reflect];**

**(iii) reflecting a reduction in authorized shares effected by operation of section 1552(a) (relating to power of corporation to acquire its own shares) and, if appropriate, [the deletion of] deleting all references to a class or series of shares that is no longer outstanding; or**

**(iv) adding or deleting a provision authorized by section 1528(f) (relating to uncertificated shares).**

\* \* \*

(e) Amendment of voting provisions.—Unless otherwise provided in **[a bylaw adopted by the shareholders] the articles**, whenever the articles require for the taking of any action by the shareholders or a class of shareholders a specific number or percentage of votes, the provision of the articles setting forth that requirement shall not be amended or repealed by any lesser number or percentage of votes of the shareholders or of the class of shareholders.

§ 1921. Merger and consolidation authorized.

\* \* \*

(c) Business trusts, *partnerships* and other associations.—The provisions of this subchapter applicable to domestic and foreign business corporations shall also be applicable to a merger **[or]**, consolidation *or share exchange to which a domestic business corporation is a party or in which such a corporation is the resulting entity* with **[or]**, into *or involving* a domestic or foreign partnership, business trust or other association. The surviving **[or]**, resulting *or exchanging* entity in such a merger **[or]**, consolidation *or share exchange* may be a corporation, partnership, *business trust* or other association. Subject to the provisions of Subchapter F of Chapter 85 (relating to merger and consolidation), the powers and duties vested in and imposed upon the

board of directors and shareholders in this subchapter shall be exercised and performed by the group of persons under the direction of whom the business and affairs of the partnership, *business* trust or other association are managed and the holders or owners of beneficial or other interests in the *partnership, business trust or other* association, respectively, irrespective of the names by which the managing group and the holders or owners of beneficial or other interests are designated. *The units into which the beneficial or other interests in the partnership, business trust or other association are divided shall be deemed to be shares for the purposes of applying the provisions of this subchapter to a merger, consolidation or share exchange involving the partnership, business trust or other association. Dissenters rights shall be available to a holder of beneficial or other interests only to the extent, if any, provided by the law under which the partnership, business trust or other association is organized.*

§ 1922. Plan of merger or consolidation.

(a) Preparation of plan.—A plan of merger or consolidation, as the case may be, shall be prepared, setting forth:

\* \* \*

(4) Any provisions desired providing special treatment of shares held by any shareholder or group of shareholders *as authorized by, and subject to the provisions of, section 1906 (relating to special treatment of holders of shares of same class or series).*

\* \* \*

(d) Party to plan.—A corporation, *partnership, business trust or other association* that approves a plan in its capacity as a shareholder or creditor of a merging or consolidating corporation, or that furnishes all or a part of the consideration contemplated by a plan, does not thereby become a party to the plan for the purposes of this subchapter.

§ 1923. Notice of meeting of shareholders.

(a) General rule.—Written notice of the meeting of shareholders called for the purpose of considering the proposed plan shall be given to each shareholder of record, whether or not entitled to vote thereon, of each domestic business corporation that is a party to the plan. There shall be included in, or enclosed with, the notice a copy of the proposed plan or a summary thereof and, if Subchapter D of Chapter 15 (relating to dissenters rights) is applicable *to the holders of shares of any class or series*, a copy of that subchapter and of section 1930 (relating to dissenters rights) *shall be furnished to the holders of shares of that class or series.*

\* \* \*

§ 1924. Adoption of plan.

(a) General rule.—The plan of merger or consolidation shall be adopted upon receiving *the affirmative vote of* a majority of the votes cast by all shareholders entitled to vote thereon of each of the domestic business corporations that is a party to the plan and, if any class or series of shares is entitled to vote thereon as a class, *the affirmative vote of* a majority of the votes cast in each class vote. The holders of any class or series of shares of a domestic corporation that is a party to a plan that effects any change in the



articles of the corporation shall be entitled to vote as a class on the plan if they would have been entitled to a class vote under the provisions of section 1914 (relating to adoption of amendments) had the change been accomplished under Subchapter B (relating to amendment of articles). A proposed plan of merger or consolidation shall not be deemed to have been adopted by the corporation unless it has also been approved by the board of directors, regardless of the fact that the board has directed or suffered the submission of the plan to the shareholders for action.

(b) Adoption by board of directors.—

(1) Unless otherwise required by its bylaws, a plan of merger or consolidation shall not require the approval of the shareholders of a *constituent domestic business* corporation if:

(i) *whether or not the constituent corporation is the surviving corporation:*

(A) [the plan, whether or not the corporation is the surviving corporation, does not alter the status of the corporation as] *the surviving or new corporation is a domestic business corporation; ~~or alter in any respect the provisions of its articles~~ and the articles of the surviving or new corporation are identical to the articles of the constituent corporation*, except changes that under section 1914(c) (relating to adoption by board of directors) may be made without shareholder action; [and]

(B) each share of the *constituent* corporation outstanding immediately prior to the effective date of the merger or consolidation is to continue as or to be converted into, except as may be otherwise agreed by the holder thereof, an identical share of the surviving or new corporation after the effective date of the merger or consolidation; and

(C) *the plan provides that the shareholders of the constituent corporation are to hold in the aggregate shares of the surviving or new corporation to be outstanding immediately after the effectiveness of the plan entitled to cast at least a majority of the votes entitled to be cast generally for the election of directors;*

(ii) immediately prior to the adoption of the plan and at all times thereafter prior to its effective date, another corporation that is a party to the plan owns directly or indirectly 90% or more of the outstanding shares of each class of the *constituent* corporation; or

(iii) no shares of the *constituent* corporation have been issued prior to the adoption of the plan of merger or consolidation by the board of directors pursuant to section 1922 (relating to plan of merger or consolidation).

(2) If a merger or consolidation is effected pursuant to paragraph (1)(i) or (iii), the plan of merger or consolidation shall be deemed adopted by the *constituent* corporation when it has been adopted by the board of directors pursuant to section 1922.

(3) If a merger or consolidation of a subsidiary corporation with a parent corporation is effected pursuant to paragraph (1)(ii), the plan of

merger or consolidation shall be deemed adopted by the subsidiary corporation when it has been adopted by the board of the parent corporation and execution of articles of merger or consolidation by the subsidiary corporation shall not be necessary.

\* \* \*

§ 1931. Share exchanges.

\* \* \*

(b) Plan of exchange.—A plan of exchange shall be prepared, setting forth:

(1) The terms and conditions of the exchange.

(2) The manner and basis of converting the shares of the exchanging corporation into shares or other securities or obligations of the acquiring person[. **If], and, if** any of the shares of the exchanging corporation are not to be converted solely into shares or other securities or obligations of the acquiring person, the shares or other securities or obligations of any other person or cash, property or rights that the holders of the shares of the exchanging corporation are to receive in exchange for, or upon conversion of, the shares and the surrender of any certificates **[or instruments]** evidencing them, which securities or obligations, if any, of any other person or cash, property and rights may be in addition to or in lieu of the shares or other securities or obligations of the acquiring person.

(3) Any changes desired to be made in the articles of the exchanging corporation, which may include a restatement of the articles.

(4) Any provisions desired providing special treatment of shares held by any shareholder or group of shareholders *as authorized by, and subject to the provisions of, section 1906 (relating to special treatment of holders of shares of same class or series). Notwithstanding subsection (a), a plan that provides special treatment may affect less than all of the outstanding shares of a class or series.*

(5) Such other provisions as are deemed desirable.

Any of the terms of the plan may be made dependent upon facts ascertainable outside of the plan if the manner in which the facts will operate upon the terms of the plan is set forth in the plan.

\* \* \*

*(h) Special requirements.—If any provision of the articles or bylaws of an exchanging domestic business corporation adopted before October 1, 1989, requires for the proposal or adoption of a plan of merger, consolidation or asset transfer a specific number or percentage of votes of directors or shareholders or other special procedures, the plan of exchange shall not be proposed by the directors or adopted by the shareholders without that number or percentage of votes or compliance with the other special procedures.*

§ 1952. Proposal and adoption of plan of division.

(a) Preparation of plan.—A plan of division shall be prepared, setting forth:

\* \* \*

(5) Any provisions desired providing special treatment of shares held by any shareholder or group of shareholders *as authorized by, and subject to the provisions of, section 1906 (relating to special treatment of holders of shares of same class or series)*.

\* \* \*

(h) Special requirements.—If any provision of the articles or bylaws of a dividing domestic business corporation adopted before **[January] October 1, 1989**, requires for the *proposal or* adoption of a plan of merger, consolidation or asset transfer a specific number or percentage of votes of directors or shareholders or other special procedures, the plan of division shall not be *proposed or* adopted by the directors or (if adoption by the shareholders is otherwise required by this subchapter) *adopted* by the shareholders without that number or percentage of votes or compliance with the other special procedures.

§ 1954. Articles of division.

Upon the adoption of a plan of division by the corporation desiring to divide, as provided in this subchapter, articles of division shall be executed by the corporation and shall, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), set forth:

(1) The name and the location of the registered office, including street and number, if any, of the dividing domestic business corporation or, in the case of a dividing foreign business corporation, the name of the corporation and the jurisdiction in which it is incorporated, together with either:

(i) If a qualified foreign business corporation, the address, including street and number, if any, of its registered office in this Commonwealth.

(ii) If a nonqualified foreign business corporation, the address, including street and number, if any, of its principal office under the laws of that jurisdiction.

(2) The statute under which the dividing corporation was incorporated and the date of incorporation.

(3) A statement that the dividing corporation will, or will not, survive the division.

(4) The name and the address, including street and number, if any, of:

(i) the registered office of each new domestic business corporation or qualified foreign business corporation resulting from the division; and

(ii) the principal office under the laws of the jurisdiction in which it is incorporated of each new nonqualified foreign business corporation resulting from the division].

(5) If the plan is to be effective on a specific date, the hour, if any, and the month, day and year of the effective date.

(6) The manner in which the plan was adopted by the corporation.

(7) Except as provided in section 1901 (relating to omission of certain provisions from filed plans), the plan of division.

## § 1957. Effect of division.

\* \* \*

**(g) Disposition of shares.**—*Unless otherwise provided in the plan, the shares and other securities or obligations, if any, of each new corporation resulting from the division shall be distributable to:*

**(1) the surviving corporation, if the dividing corporation survives the division; or**

**(2) the holders of the common or other residuary shares of the dividing corporation pro rata, in any other case.**

## § 1962. Proposal and adoption of plan of conversion.

**(a) Preparation of plan.**—A plan of conversion shall be prepared, setting forth:

**(1) The terms and conditions of the conversion.**

**(2) A restatement of the articles of the resulting corporation, which articles shall comply with the requirements of this part relating to non-profit corporations.**

**(3) Any provisions desired providing special treatment of shares held by any shareholder or group of shareholders *as authorized by, and subject to the provisions of, section 1906 (relating to special treatment of holders of shares of same class or series).***

**(4) Such other provisions as are deemed desirable.**

Any of the terms of the plan may be made dependent upon facts ascertainable outside of the plan if the manner in which the facts will operate upon the terms of the plan is set forth in the plan.

\* \* \*

## § 1972. Proposal of voluntary dissolution.

**(a) General rule.**—Any business corporation that has commenced business may elect to dissolve voluntarily and wind up its affairs in the manner provided in this subchapter. Voluntary dissolution shall be proposed by the adoption by the board of directors of a resolution recommending that the corporation be dissolved voluntarily.

**(b) Submission to shareholders.**—The board of directors shall direct that the question of dissolution be submitted to a vote of the shareholders of the corporation entitled to vote thereon at a regular or special meeting of the shareholders.

## § 1974. Adoption of proposal.

**(a) General rule.**—The resolution shall be adopted upon receiving *the affirmative vote of a majority of the votes cast by all shareholders of the business corporation entitled to vote thereon and, if any class of shares is entitled to vote thereon as a class, the affirmative vote of a majority of the votes cast in each class vote.* A proposal for the voluntary dissolution of a corporation shall not be deemed to have been adopted by the corporation unless it has also been recommended by resolution of the board of directors, regardless of the fact that the board has directed or suffered the submission of such a proposal to the shareholders for action.

\* \* \*

§ 2101. Application and effect of chapter.

(a) General rule.—This chapter shall be applicable to:

(1) A business corporation that elects to become a nonstock corporation in the manner provided by this chapter.

(2) A domestic corporation for profit subject to Subpart D (relating to cooperative corporations) organized on a nonstock basis.

(3) *A domestic insurance corporation that is a mutual insurance company.*

\* \* \*

§ 2105. Termination of nonstock corporation status.

\* \* \*

(c) *Mutual insurance companies.—With respect to the termination of the status of a mutual insurance company as a nonstock corporation, see section 103 (relating to subordination of title to regulatory laws) and the act of December 10, 1970 (P.L. 884, No. 279), referred to as the Mutual Insurance Company Conversion Law.*

§ 2121. Corporate name of nonstock corporations.

\* \* \*

(b) Insurance names.—[A nonstock corporation shall not use a name containing any of the words “annuity,” “assurance,” “beneficial,” “bond,” “casualty,” “endowment,” “fidelity,” “fraternal,” “guaranty,” “indemnity,” “insurance,” “surety” or “title” when used in such a way as to imply that the corporation is engaged in the business of writing insurance as principal, or any other words of like purport, unless there is submitted a certificate from the Insurance Department certifying that the department has no objection to the use by the corporation or proposed corporation of such designation.] *See section 1303(c)(1)(iii) (relating to corporate name).*

§ 2301. Application and effect of chapter.

\* \* \*

(d) Transitional provisions.—The following provisions of this chapter shall not apply to a statutory close corporation existing on [January 1,] *September 30, 1989*, unless otherwise provided in a bylaw adopted in the manner provided by section 2332(b) (relating to procedure):

Section 2321(b) (relating to preemptive rights) insofar as such provision authorizes the shareholders to adopt a bylaw eliminating or limiting the preemptive rights provided in that subsection.

Section 2322 (relating to share transfer restrictions).

Section 2323 (relating to transfer of shares in breach of transfer restrictions). If section 2323 is not applicable to the corporation, transfer restrictions (including a restriction that is held not to be authorized by section 1529 (relating to transfer of securities; restrictions)) shall be enforced in the same manner as if this article had not been enacted.

Section 2325 (relating to sale option of estate of shareholder).

Section 2336 (relating to fundamental changes).

\* \* \*

§ 2304. Additional contents of articles of statutory close corporations.

(a) General rule.—In addition to the provisions otherwise required by this subpart, the articles of a statutory close corporation shall provide that neither the corporation nor any shareholder shall make an offering of any of its shares of any class that would constitute a “public offering” within the meaning of the Securities Act of 1933 [(15 U.S.C. § 77a et seq.)].

\* \* \*

§ 2309. Involuntary termination of statutory close corporation status; proceeding to prevent loss of status.

(a) General rule.—If any event occurs as a result of which the provision included in the articles of a statutory close corporation pursuant to section 2304(a) (relating to additional contents of articles of statutory close corporations) to qualify it as a statutory close corporation has been breached, the status of the business corporation as a statutory close corporation under this chapter shall terminate unless:

(1) Within 30 days after the occurrence of the event or within 30 days after the event has been discovered, whichever is later, the corporation:

(i) Files in the Department of State a [certificate] *statement* executed by the corporation setting forth:

(A) The name of the corporation and, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its registered office.

(B) A statement that the provision included in its articles pursuant to section 2304(a) to qualify it as a statutory close corporation has been breached.

(ii) Furnishes a copy of the [certificate] *statement* to each shareholder.

(2) The corporation concurrently with the filing of the [certificate] *statement* takes such steps as are necessary to correct the situation that threatens its status as a statutory close corporation including, without limitation, the refusal to register the transfer of shares that have been wrongfully transferred as provided by section 2308 (relating to issuance or transfer of shares of a statutory close corporation in breach of qualifying conditions) or initiation of a proceeding under subsection (b).

\* \* \*

(c) Notice of cure of breach.—When the situation that threatened the status of the corporation as a statutory close corporation has been remedied and if the corporation has not amended its articles in accordance with section 2307 (relating to voluntary termination of statutory close corporation status by amendment of articles), the corporation shall file in the department a [certificate] *statement* executed by the corporation, setting forth:

(1) The name of the corporation and, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its registered office.

(2) A statement that no breach of the provision included in its articles pursuant to section 2304(a) exists.

Upon the filing of the [certificate] *statement*, the status of the corporation as a statutory close corporation under this chapter, if theretofore terminated by reason of subsection (a), shall be restored.

\* \* \*

§ 2334. Appointment of provisional director in certain cases.

\* \* \*

(b) Application for relief.—

(1) An application for relief under this section must be filed by or on behalf of:

- (i) at least one-half of the number of directors then in office;
- (ii) the holders of shares entitled to cast at least one-third of the votes that all shareholders are entitled to cast for the election of directors; or
- (iii) shareholders entitled to cast at least two-thirds of the votes that all shareholders of [the] *any class entitled to elect one or more directors* are entitled to cast for the election of directors, if there is more than one class of shares then entitled to elect one or more directors.

A bylaw of a statutory close corporation adopted by the shareholders may provide that a lesser proportion of the directors or of the shareholders or of a class of shareholders may apply for relief under this section.

(2) Even though the requirements of paragraph (1) are not satisfied, the court may nevertheless appoint a provisional director if permitted by section 2333(b) (relating to provisional director).

\* \* \*

§ 2502. Registered corporation status.

Subject to additional definitions contained in subsequent provisions of this chapter which are applicable to specific subchapters of this chapter, as used in this chapter, the term “registered corporation” shall mean:

(1) A domestic business corporation:

(i) [having] *that*:

(A) *has* a class or series of shares entitled to vote generally in the election of directors of the corporation registered under the [Securities] Exchange Act [of 1934 (15 U.S.C. § 78a et seq.)]; or

(B) *is registered as a management company under the Investment Company Act of 1940 and in the ordinary course of business does not redeem outstanding shares at the option of a shareholder at the net asset value or at another agreed method or amount of value thereof; or*

(ii) *that is*:

(A) subject to the reporting obligations imposed by section 15(d) of the [Securities] Exchange Act [of 1934 (15 U.S.C. § 78o(d))] by reason of having filed a registration statement which has become effective under the Securities Act of 1933 [(15 U.S.C. § 77a et seq.)] relating to shares of a class or series of its equity securities[.] *entitled to vote generally in the election of directors; or*

**(B) registered as a management company under the Investment Company Act of 1940 and in the ordinary course of business redeems outstanding shares at the option of a shareholder at the net asset value or at another agreed method or amount of value thereof.**

A corporation which satisfies both subparagraphs (i) and (ii) shall be deemed to be described solely in subparagraph (i) for the purposes of this chapter.

(2) A domestic business corporation all of the shares of which are owned, directly or indirectly, by one or more registered corporations or foreign corporations for profit described in section 4102(b) (relating to registered corporation exclusions).

§ 2524. Consent of shareholders in lieu of meeting.

(a) **General rule.**—An action *may be* authorized by the shareholders of a registered corporation *without a meeting* by less than unanimous written consent[, if action by less than unanimous written consent is] *only if* permitted by its articles[.].

(b) **Effectiveness of action.**—An action authorized by the shareholders of a registered corporation *without a meeting* by less than unanimous written consent may become effective immediately upon its authorization, but prompt notice of the action shall be given to those shareholders entitled to vote thereon who have not consented.

§ 2525. **Appointment of custodian.**

*Section 1767(a)(2) (relating to appointment of custodian of corporation on deadlock or other cause) shall not be applicable to a registered corporation described in section 2502(2) (relating to registered corporation status).*

§ 2538. **Approval of transactions with interested shareholders.**

(a) **General rule.**—*The following transactions shall require the affirmative vote of the shareholders entitled to cast at least a majority of the votes that all shareholders other than the interested shareholder are entitled to cast with respect to the transaction, without counting the vote of the interested shareholder:*

(1) *Any transaction authorized under Subchapter C of Chapter 19 (relating to merger, consolidation, share exchanges and sale of assets) between a registered corporation or subsidiary thereof and a shareholder of the registered corporation.*

(2) *Any transaction authorized under Subchapter D of Chapter 19 (relating to division) in which the interested shareholder receives a disproportionate amount of any of the shares or other securities of any corporation surviving or resulting from the plan of division.*

(3) *Any transaction authorized under Subchapter F of Chapter 19 (relating to voluntary dissolution and winding up) in which a shareholder is treated differently from other shareholders of the same class (other than any dissenting shareholders under Subchapter D of Chapter 15 (relating to dissenters rights)).*

(4) *Any reclassification authorized under Subchapter B of Chapter 19 (relating to amendment of articles) in which the percentage of voting or economic share interest in the corporation of a shareholder is materially increased relative to substantially all other shareholders.*



**(b) Exceptions.**—*Subsection (a) shall not apply to a transaction:*

**(1)** *that has been approved by a majority vote of the board of directors without counting the vote of directors who:*

**(i)** *are directors or officers of, or have a material equity interest in, the interested shareholder; or*

**(ii)** *were nominated for election as a director by the interested shareholder, and first elected as a director, within 24 months of the date of the vote on the proposed transaction; or*

**(2)** *in which the consideration to be received by the shareholders for shares of any class of which shares are owned by the interested shareholder is not less than the highest amount paid by the interested shareholder in acquiring shares of the same class.*

**(c) Additional approvals.**—*The approvals required by this section shall be in addition to, and not in lieu of, any other approval required by this subpart, the articles of the corporation, the bylaws of the corporation or otherwise.*

**(d) Definition of “interested shareholder”.**—*As used in this section, the term “interested shareholder” includes the shareholder who is a party to the transaction or who is treated differently from other shareholders and any person, or group of persons, that is acting jointly or in concert with the interested shareholder and any person who, directly or indirectly, controls, is controlled by or is under common control with the interested shareholder. An interested shareholder shall not include any person who, in good faith and not for the purpose of circumventing this section, is an agent, bank, broker, nominee or trustee for one or more other persons, to the extent that the other person or persons are not interested shareholders.*

§ 2541. Application and effect of subchapter.

**(a) General rule.**—*Except as otherwise provided in this section, this subchapter shall apply to a registered corporation unless:*

**(1)** *the registered corporation is one described in section 2502(1)(ii) or*

**(2)** *(relating to registered corporation status);*

**(2)** *the bylaws, by amendment adopted either:*

**(i)** *by March 23, 1984; or*

**(ii)** *on or after March 23, 1988, and on or before June 21, 1988;*

*and, in either event, not subsequently rescinded by an article amendment, explicitly provide that this subchapter shall not be applicable to the corporation[; or] in the case of a corporation which on June 21, 1988, did not have outstanding one or more classes or series of preference shares entitled, upon the occurrence of a default in the payment of dividends or another similar contingency, to elect a majority of the members of the board of directors (a bylaw adopted on or before June 21, 1988, by a corporation excluded from the scope of this paragraph by the restriction of this paragraph relating to certain outstanding preference shares shall be ineffective unless ratified under paragraph (3));*

**(3)** *the bylaws of which explicitly provide that this subchapter shall not be applicable to the corporation by amendment ratified by the board of directors on or after December 19, 1990, and on or before March 19, 1991, in the case of a corporation:*

(i) *which on June 21, 1988, had outstanding one or more classes or series of preference shares entitled, upon the occurrence of a default in the payment of dividends or another similar contingency, to elect a majority of the members of the board of directors; and*

(ii) *the bylaws of which on that date contained a provision described in paragraph (2); or*

[(3)] (4) the articles explicitly provide that this subchapter shall not be applicable to the corporation by a provision included in the original articles, by an article amendment adopted prior to the date of the control transaction and prior to or on March 23, 1988, pursuant to the procedures then applicable to the corporation, or by an [article] *articles* amendment adopted prior to the date of the control transaction and subsequent to March 23, 1988, pursuant to both:

(i) the procedures then applicable to the corporation; and

(ii) unless such proposed amendment has been approved by the board of directors of the corporation, in which event this subparagraph shall not be applicable, the affirmative vote of the shareholders entitled to cast at least 80% of the votes which all shareholders are entitled to cast thereon.

A reference in the articles or bylaws to former section 910 (relating to right of shareholders to receive payment for shares following a control transaction) of the act of May 5, 1933 (P.L.364, No.106), known as the Business Corporation Law of 1933, shall be deemed a reference to this subchapter for the purposes of this section. See section 101(c) (relating to references to prior statutes).

\* \* \*

#### § 2543. Controlling person or group.

(a) General rule.—For the purpose of this subchapter, a “controlling person or group” means a person who has, or a group of persons acting in concert that has, voting power over voting shares of the registered corporation that would entitle the holders thereof to cast at least 20% of the votes that all shareholders would be entitled to cast in an election of directors of the corporation.

(b) Exceptions generally.—Notwithstanding subsection (a):

(1) A person or group which would otherwise be a controlling person or group within the meaning of this section shall not be deemed a controlling person or group unless, subsequent to the later of March 23, 1988, or the date this subchapter becomes applicable to a corporation by bylaw or article amendment or otherwise, that person or group increases the percentage of outstanding voting shares of the corporation over which it has voting power to in excess of the percentage of outstanding voting shares of the corporation over which that person or group had voting power on such later date, and to at least the amount specified in subsection (a), as the result of forming or enlarging a group or acquiring, by purchase, voting power over voting shares of the corporation.

(2) No person or group shall be deemed to be a controlling person or group at any particular time if voting power over any of the following

voting shares is required to be counted at such time in order to meet the 20% minimum:

(i) Shares which have been held continuously by a natural person since January 1, 1983, and which are held by such natural person at such time.

(ii) Shares which are held at such time by any natural person or trust, estate, foundation or other similar entity to the extent the shares were acquired solely by gift, inheritance, bequest, devise or other testamentary distribution or series of these transactions, directly or indirectly, from a natural person who had acquired the shares prior to January 1, 1983.

(iii) Shares which were acquired pursuant to a stock split, stock dividend, reclassification or similar recapitalization with respect to shares described under this paragraph that have been held continuously since their issuance by the corporation by the natural person or entity that acquired them from the corporation or that were acquired, directly or indirectly, from such natural person or entity, solely pursuant to a transaction or series of transactions described in subparagraph (ii), and that are held at such time by a natural person or entity described in subparagraph (ii).

(iv) *Control shares as defined in section 2562 (relating to definitions) which have not yet been accorded voting rights pursuant to section 2564(a) (relating to voting rights of shares acquired in a control-share acquisition).*

(v) *Shares, the voting rights of which are attributable to a person under subsection (d) if:*

(A) *the person acquired the option or conversion right directly from or made the contract, arrangement or understanding or has the relationship directly with the corporation; and*

(B) *the person does not at the particular time own or otherwise effectively possess the voting rights of the shares.*

(vi) *Shares acquired directly from the corporation or an affiliate or associate, as defined in section 2552 (relating to definitions), of the corporation by a person engaged in business as an underwriter of securities who acquires the shares through his participation in good faith in a firm commitment underwriting registered under the Securities Act of 1933.*

(3) *In determining whether a person or group is or would be a controlling person or group at any particular time, there shall be disregarded voting power arising from a contingent right of the holders of one or more classes or series of preference shares to elect one or more members of the board of directors upon or during the continuation of a default in the payment of dividends on such shares or another similar contingency.*

\* \* \*

#### § 2552. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

\* \* \*

["Exchange Act." The Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. § 78a et seq.), as amended.]

\* \* \*

§ 2554. Business combination.

The term "business combination," when used in reference to any registered corporation and any interested shareholder of the corporation, means any of the following:

(1) A merger [or], consolidation, *share exchange or division* of the corporation or any subsidiary of the corporation [with]:

(i) *with* the interested shareholder; or

(ii) *with, involving or resulting in* any other corporation (whether or not itself an interested shareholder of the registered corporation) which is, or after the merger [or consolidation], *consolidation, share exchange or division* would be, an affiliate or associate of the interested shareholder.

\* \* \*

§ 2561. Application and effect of subchapter.

\* \* \*

(b) Exceptions.—This subchapter shall not apply to any control-share acquisition:

\* \* \*

(2) Of a corporation:

(i) the bylaws of which explicitly provide that this subchapter shall not be applicable to the corporation by amendment adopted by the board of directors on or before July 26, 1990, in the case of a corporation [which]:

(A) *which on April 27, 1990, was a registered corporation described in section 2502(1)(i) [on April 27, 1990; or]; and*

(B) *did not on that date have outstanding one or more classes or series of preference shares entitled, upon the occurrence of a default in the payment of dividends or another similar contingency, to elect a majority of the members of the board of directors (a bylaw adopted on or before July 26, 1990, by a corporation excluded from the scope of this subparagraph by this clause shall be ineffective unless ratified under subparagraph (ii));*

(ii) *the bylaws of which explicitly provide that this subchapter shall not be applicable to the corporation by amendment ratified by the board of directors on or after December 19, 1990, and on or before March 19, 1991, in the case of a corporation:*

(A) *which on April 27, 1990, was a registered corporation described in section 2502(1)(i);*

(B) *which on that date had outstanding one or more classes or series of preference shares entitled, upon the occurrence of a default in the payment of dividends or another similar contingency, to elect a majority of the members of the board of directors; and*

(C) *the bylaws of which on that date contained a provision described in subparagraph (i); or*

**[(ii)] (iii)** in any other case, the articles of which explicitly provide that this subchapter shall not be applicable to the corporation by a provision included in the original articles, or by an articles amendment adopted *at any time while it is a corporation other than a registered corporation described in section 2502(1)(i)* or on or before 90 days after the corporation first becomes a registered corporation described in section 2502(1)(i).

\* \* \*

(5) Consummated:

\* \* \*

**(xi)** *By a person engaged in business as an underwriter of securities who acquires the shares directly from the corporation or an affiliate or associate of the corporation through his participation in good faith in a firm commitment underwriting registered under the Securities Act of 1933.*

**(xii)** *Or commenced by a person who first became an acquiring person:*

**(A)** *after April 27, 1990; and*

**(B) (I)** *at a time when this subchapter was or is not applicable to the corporation; or*

**(II)** *on or before ten business days after the first public announcement by the corporation that this subchapter is applicable to the corporation, if this subchapter was not applicable to the corporation on July 27, 1990.*

\* \* \*

(d) Status of certain shares and effect of formation of group on status.—

\* \* \*

**(4)** *No share of a corporation over which voting power, or of which beneficial ownership, was or is acquired by the acquiring person after April 27, 1990, at a time when this subchapter was or is not applicable to the corporation shall be deemed to be a control share.*

**(e)** Application of duties.—The duty of the board of directors, committees of the board and individual directors under section **[2564] 2565** (relating to procedure for establishing voting rights of control shares) is solely to the corporation and may be enforced directly by the corporation or may be enforced by a shareholder, as such, by an action in the right of the corporation, and may not be enforced directly by a shareholder or by any other person or group.

§ 2562. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

\* \* \*

“Disinterested shares.” All voting shares of a corporation that are not affiliate shares and that were beneficially owned by the same holder (or a direct or indirect transferee from the holder to the extent such shares were acquired by the transferee solely pursuant to a transfer or series of transfers

under section 2561(b)(5)(i) through (vi) (relating to application and effect of subchapter)) continuously during the period from:

\* \* \*

(2) the record date established pursuant to section [2564(c)] 2565(c) (relating to notice and record date).

["Exchange Act." The term shall have the meaning specified in section 2552 (relating to definitions).]

\* \* \*

"Proxy solicitation" or "solicitation of proxies." Includes any solicitation of a proxy, including a solicitation of a revocable proxy of the nature and under the circumstances described in section [2562.1(b)(3)] 2563(b)(3) (relating to acquiring person safe harbor).

\* \* \*

§ [2562.1] 2563. Acquiring person safe harbor.

(a) Nonparticipant.—For the purposes of this subchapter, a person shall not be deemed an acquiring person, absent significant other activities indicating that a person should be deemed an acquiring person, by reason of voting or giving a proxy or consent as a shareholder of the corporation if the person is one who:

(1) did not acquire any voting shares of the corporation with the purpose of changing or influencing control of the corporation, seeking to acquire control of the corporation or influencing the outcome of a vote of shareholders under section [2563] 2564 (relating to voting rights of shares acquired in a control-share acquisition) or in connection with or as a participant in any agreement, arrangement, relationship, understanding or otherwise having any such purpose;

\* \* \*

(b) Certain holders.—For the purpose of this subchapter, a person shall not be deemed an acquiring person if such person holds voting power within any of the ranges specified in the definition of "control-share acquisition":

\* \* \*

(2) in connection with the solicitation of proxies or consents by or on behalf of the corporation in connection with shareholder meetings or actions of the corporation; **[or]**

(3) as a result of the solicitation of revocable proxies or consents with respect to voting shares if such proxies or consents both:

(i) are given without consideration in response to a proxy or consent solicitation made in accordance with the applicable rules and regulations under the Exchange Act; and

(ii) do not empower the holder thereof, whether or not this power is shared with any other person, to vote such shares except on the specific matters described in such proxy or consent and in accordance with the instructions of the giver of such proxy or consent[.]; **or**

***(4) to the extent of voting power arising from a contingent right of the holders of one or more classes or series of preference shares to elect one or more members of the board of directors upon or during the continuation of a default in the payment of dividends on such shares or another similar contingency.***

§ [2563] 2564. Voting rights of shares acquired in a control-share acquisition.

\* \* \*

§ [2564] 2565. Procedure for establishing voting rights of control shares.

(a) Special meeting.—A special meeting of the shareholders of a registered corporation shall be called by the board of directors of the corporation for the purpose of considering the voting rights to be accorded to the control shares if an acquiring person:

(1) files an information statement fully conforming to section [2565] 2566 (relating to information statement of acquiring person);

\* \* \*

(d) Special meeting or submission of issue at annual or special meeting not required.—Notwithstanding subsections (a) and (b), the corporation is not required to call a special meeting of shareholders or otherwise present the issue of the voting rights to be accorded to the control shares at any annual or special meeting of shareholders unless:

(1) the acquiring person delivers to the corporation a complete information statement pursuant to section [2565] 2566; and

\* \* \*

§ [2565] 2566. Information statement of acquiring person.

(a) Delivery of information statement.—An acquiring person may deliver to the registered corporation at its principal executive office an information statement which shall contain all of the following:

\* \* \*

(8) Any other facts that would be substantially likely to affect the decision of a shareholder with respect to voting on the control-share acquisition pursuant to section [2563] 2564 (relating to voting rights of shares acquired in a control-share acquisition).

\* \* \*

§ [2566] 2567. Redemption.

Unless prohibited by the terms of the articles of a registered corporation in effect before a control-share acquisition has occurred, the corporation may redeem all control shares from the acquiring person at the average of the high and low sales price of shares of the same class and series as such prices are specified on a national securities exchange, national quotation system or similar quotation listing service on the date the corporation provides notice to the acquiring person of the call for redemption:

(1) at any time within 24 months after the date on which the acquiring person consummates a control-share acquisition, if the acquiring person does not, within 30 days after consummation of the control-share acquisition, properly request that the issue of voting rights to be accorded control shares be presented to the shareholders under section [2564(a)] 2565(a) or (b) (relating to procedure for establishing voting rights of control shares); and

(2) at any time within 24 months after the issue of voting rights to be accorded such shares is submitted to the shareholders pursuant to section [2564(a)] 2565(a) or (b); and

(i) such voting rights are not accorded pursuant to section [2563(a)] 2564(a) (relating to voting rights of shares acquired in control-share acquisition); or

(ii) such voting rights are accorded and subsequently lapse pursuant to section [2563(b)] 2564(b) (relating to lapse of voting rights).

§ [2567] 2568. Board determinations.

\* \* \*

§ 2571. Application and effect of subchapter.

\* \* \*

(b) Exceptions.—This subchapter shall not apply to any transfer of an equity security:

\* \* \*

(2) Of a corporation:

(i) the bylaws of which explicitly provide that this subchapter shall not be applicable to the corporation by amendment adopted by the board of directors on or before July 26, 1990, in the case of a corporation [which]:

(A) which on April 27, 1990, was a registered corporation described in section 2502(1)(i) [on April 27, 1990; or]; and

(B) did not on that date have outstanding one or more classes or series of preference shares entitled, upon the occurrence of a default in the payment of dividends or another similar contingency, to elect a majority of the members of the board of directors (a bylaw adopted on or before July 26, 1990, by a corporation excluded from the scope of this subparagraph by this clause shall be ineffective unless ratified under subparagraph (ii));

(ii) the bylaws of which explicitly provide that this subchapter shall not be applicable to the corporation by amendment ratified by the board of directors on or after December 19, 1990, and on or before March 19, 1991, in the case of a corporation:

(A) which on April 27, 1990, was a registered corporation described in section 2502(1)(i);

(B) which on that date had outstanding one or more classes or series of preference shares entitled, upon the occurrence of a default in the payment of dividends or another similar contingency, to elect a majority of the members of the board of directors; and

(C) the bylaws of which on that date contained a provision described in subparagraph (i); or

[(ii)] (iii) in any other case, the articles of which explicitly provide that this subchapter shall not be applicable to the corporation by a provision included in the original articles, or by an articles amendment adopted at any time while it is a corporation other than a registered corporation described in section 2502(1)(i) or on or before 90 days after the corporation first becomes a registered corporation described in section 2502(1)(i).

\* \* \*



## (6) Consummated by:

\* \* \*

(iii) *A person engaged in business as an underwriter of securities who acquires the equity securities directly from the corporation or an affiliate or associate, as defined in section 2552 (relating to definitions), of the corporation through his participation in good faith in a firm commitment underwriting registered under the Securities Act of 1933.*

\* \* \*

(8) *Acquired at any time by a person or group who first became a controlling person or group:*(i) *after April 27, 1990; and*(ii) (A) *at a time when this subchapter was or is not applicable to the corporation; or*(B) *on or before ten business days after the first public announcement by the corporation that this subchapter is applicable to the corporation, if this subchapter was not applicable to the corporation on July 27, 1990.*

\* \* \*

## § 2573. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

\* \* \*

“Proxy solicitation” or “solicitation of proxies.” Includes any solicitation of a proxy, including a solicitation of a revocable proxy of the nature and under the circumstances described in section [2573.1(b)(3)] 2574(b)(3) (relating to controlling person or group safe harbor).

\* \* \*

## § [2573.1] 2574. Controlling person or group safe harbor.

\* \* \*

(c) *Preference shares.*—*In determining whether a person or group would be a controlling person or group within the meaning of this subchapter, there shall be disregarded voting power, and the seeking to acquire control of a corporation to the extent based upon voting power arising from a contingent right of the holders of one or more classes or series of preference shares to elect one or more members of the board of directors upon or during the continuation of a default in the payment of dividends on such shares or another similar contingency.*

## § [2574] 2575. Ownership by corporation of profits resulting from certain transactions.

\* \* \*

## § [2575] 2576. Enforcement actions.

\* \* \*

## § 2581. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

\* \* \*

“Control-share approval.”

(1) The occurrence of both:

\* \* \*

(ii) the according by such registered corporation of voting rights pursuant to section [2563(a)] 2564(a) (relating to voting rights of shares acquired in a control-share acquisition) in connection with such control-share acquisition to control shares of the acquiring person.

(2) The term shall also include a control-share acquisition effected by an acquiring person, other than a control-share acquisition described in section 2561(b)(3), (4) or (5) (other than subparagraph 2561(b)(5)(vii)) (relating to application and effect of subchapter) if the control-share acquisition:

(i) (A) occurs primarily in response to the actions of an other acquiring person where Subchapter G (relating to control-share acquisitions) applies to a control-share acquisition or proposed control-share acquisition by such other acquiring person; and

(B) either:

(I) pursuant to an agreement or plan described in section 2561(b)(5)(vii);

(II) after adoption of an amendment to the articles of the registered corporation pursuant to section [2561(b)(2)(ii)] 2561(b)(2)(iii); or

(III) after reincorporation of the registered corporation in another jurisdiction;

if the agreement or plan is approved or the amendment or reincorporation is adopted by the board of directors of the corporation during the period commencing after the satisfaction by such other acquiring person of the requirements of section [2564(a)] 2565(a) or (b) (relating to procedure for establishing voting rights of control shares) and ending 90 days after the date such issue is voted on by the shareholders, is withdrawn from consideration or becomes moot; or

(ii) is consummated in any manner by a person who satisfied, within two years prior to such acquisition, the requirements of section [2564(a)] 2565(a) or (b).

\* \* \*

CHAPTER 27  
MANAGEMENT CORPORATIONS

Subchapter

- A. Preliminary Provisions
- B. Directors and Shareholders
- C. Fundamental Changes

SUBCHAPTER A  
PRELIMINARY PROVISIONS

Sec.

- 2701. Application and effect of chapter.
- 2702. Formation of management corporations.

2703. Additional contents of articles of management corporations.

2704. Election of an existing business corporation to become a management corporation.

2705. Termination and renewal of status as a management corporation.

§ 2701. Application and effect of chapter.

(a) General rule.—This chapter shall be applicable to a business corporation, other than a statutory close corporation or a professional corporation, that elects to become a management corporation in the manner provided by this chapter.

(b) Laws applicable to management corporations.—Except as otherwise provided in this chapter, this subpart shall be generally applicable to all management corporations. The specific provisions of this chapter shall control over the general provisions of this subpart. Except as otherwise provided in this article, a management corporation may be simultaneously subject to this chapter and one or more other chapters of this article.

(c) Effect of a contrary provision of the bylaws.—The bylaws of a management corporation may provide either expressly or by necessary implication that any one or more of the provisions of this chapter, except this subchapter, shall not be applicable, in whole or in part, to the corporation.

§ 2702. Formation of management corporations.

A management corporation shall be formed in accordance with Article B (relating to domestic business corporations generally) except that its articles shall contain:

(1) A heading stating the name of the corporation and that it is a management corporation.

(2) The provisions required by section 2703 (relating to additional contents of articles of management corporations).

§ 2703. Additional contents of articles of management corporations.

In addition to the provisions otherwise required by this subpart, the articles of a management corporation shall provide that:

(1) If, and so long as, the corporation is not a registered corporation:

(i) All of the outstanding shares of the corporation of all classes shall be subject to one or more of the restrictions on transfer permitted by section 1529 (relating to transfer of securities; restrictions).

(ii) Except as part of a transaction having as a purpose the establishment of the corporation as a registered corporation, neither the corporation nor any shareholder shall make an offering of any of its shares of any class that would constitute a “public offering” within the meaning of the Securities Act of 1933.

(2) If and so long as the corporation is not a management company registered under the Investment Company Act of 1940:

(i) if the compensation or cost of benefits of the directors and five most highly-compensated officers of the corporation is determined other than by a fixed annual amount in dollars per year, or if the corporation is managed by persons other than its directors and officers, the rate, formula or other basis for payment by the corporation of such

compensation or benefits shall be valid only if approved by the shareholders from time to time by the affirmative vote; or

(ii) if subparagraph (i) is not applicable, the compensation or the cost of benefits of directors and of the five most highly-compensated officers of the corporation shall not be increased to a higher number of dollars per year without the prior affirmative vote obtained within one year of such increase;

of the holders of the outstanding shares of each class or series whether or not otherwise entitled to vote by the articles. If the articles confer upon the holders of a class or series a specifically enforceable right to the declaration and payment of dividends which are not contingent upon or related to net income (other than as provided by section 1551(b) (relating to limitation)), the articles may deny the holders of such class or series voting rights under this paragraph.

(3) The terms "compensation" and "benefits" shall mean amounts taxable, either currently or on a deferred basis, to a director or officer of the corporation under the Internal Revenue Code of 1986.

**§ 2704. Election of an existing business corporation to become a management corporation.**

(a) **General rule.**—A business corporation may become a management corporation under this chapter by filing articles of amendment which shall contain, in addition to the requirements of section 1915 (relating to articles of amendment):

(1) A heading stating the name of the corporation and that it is a management corporation.

(2) A statement that it elects to become a management corporation.

(3) The provisions required by section 2703 (relating to additional contents of articles of management corporations).

(b) **Procedure.**—An election to become subject to this chapter shall be proposed by a resolution adopted by the board of directors and shall be adopted in accordance with the requirements of Subchapter B of Chapter 19 (relating to amendment of articles). If an effective date is not stated in the articles of amendment, this chapter shall become applicable to the corporation on the date the articles of amendment are filed in the Department of State.

(c) **Dissenters rights upon election.**—If any shareholder of a corporation, other than a management company registered under the Investment Company Act of 1940, that adopts an election under this chapter to become a management corporation objects to that action and complies with the provisions of Subchapter D of Chapter 15 (relating to dissenters rights), the dissenting shareholder shall be entitled to the rights and remedies of dissenting shareholders therein provided.

(d) **Cross reference.**—See section 134 (relating to docketing statement).

**§ 2705. Termination and renewal of status as a management corporation.**

(a) **General rule.**—A management corporation may terminate its status as such and cease to be subject to this chapter by amending its articles to delete therefrom the additional provisions required by section 2702 (relating

to formation of management corporations) to be included in the articles of a management corporation. If an effective date is not stated in the articles of amendment, this chapter shall cease to be applicable to the corporation on the date the articles of amendment are filed in the Department of State.

(b) Automatic termination.—The status of a nonregistered corporation as a management corporation shall terminate at the time specified in this subsection upon the occurrence of any of the following:

(1) Three months after the end of any fiscal year:

(i) at the end of which the corporation had less than \$50,000,000 of assets; and

(ii) during which it had revenue or receipts of less than \$50,000,000.

(2) Three years after its date of incorporation or the effective date of its most recent articles of amendment filed under section 2704 (relating to election of an existing business corporation to become a management corporation).

(c) Renewal.—An election to be subject to this chapter terminated under subsection (b) may be renewed by complying with the provisions of section 2704 (except subsection (c)) in the same manner as an initial election, if the corporation then satisfies the requirements of subsection (b)(1).

(d) Dissenters rights upon renewal of election.—If any shareholder of a nonregistered corporation that renews an election under this chapter to continue as a management corporation objects to that action and complies with the provision of Subchapter D of Chapter 15 (relating to dissenters rights), the dissenting shareholder shall be entitled to the rights and remedies of dissenting shareholders therein provided.

## SUBCHAPTER B DIRECTORS AND SHAREHOLDERS

Sec.

2711. Selection and removal of directors.

2712. Shareholder meetings unnecessary.

§ 2711. Selection and removal of directors.

(a) General rule.—The bylaws of a management corporation may specify the manner in which and the persons by whom the directors of the corporation shall be selected and may be removed. Unless otherwise provided in the bylaws, the directors of a management corporation shall be selected and may be removed by the board of directors. An incidental reference to the election of directors by common or other junior shares contained in the express terms of any class or series of any preference shares defining the contingent or other voting rights of preference shares shall not constitute, for the purposes of this section, a provision of the articles providing for the election of directors by the common or other junior shares.

(b) Term.—The duration of the term of office of a director of a management corporation shall not be limited by statute.

§ 2712. Shareholder meetings unnecessary.

Annual or other regular meetings of the shareholders of a management corporation need not be held.

SUBCHAPTER C  
FUNDAMENTAL CHANGES

Sec.

2721. Bylaw and fundamental change procedures.

2722. Changes in authorized shares.

§ 2721. Bylaw and fundamental change procedures.

So long as a business corporation is a management corporation subject to this chapter:

(1) The board of directors shall have the full authority vested by this subpart in the shareholders to amend the articles under section 2704(b) (relating to procedure) to renew the election of the corporation to be subject to this chapter and to adopt or change the bylaws, and a bylaw adopted by the board of directors pursuant to this section may continue in effect as long as the corporation remains subject to this chapter.

(2) An amendment or plan shall not be adopted under Chapter 19 (relating to fundamental changes), and a bylaw shall not be adopted or changed by the shareholders, without the approval of the board of directors.

(3) In the case of a corporation that in the ordinary course of business redeems all outstanding shares at the option of the shareholder at the net asset value or at another agreed method or amount of value thereof, an amendment or plan under Chapter 19 shall not require the approval of the shareholders of the corporation for adoption by the corporation.

§ 2722. Changes in authorized shares.

(a) General rule.—An amendment of the articles of a management corporation shall not require the approval of the shareholders of the corporation to the extent it increases or decreases (to a number not less than that then outstanding) the number of authorized shares of the corporation or of any class or series of the corporation.

(b) Procedure.—The articles of amendment shall set forth, in addition to the requirements of section 1915 (relating to articles of amendment):

(1) The aggregate number of shares that the corporation shall have authority to issue, or the designations of the classes of shares of the corporation and the maximum number of shares of each class that may be issued.

(2) A statement of the voting rights, designations, preferences, limitations and special rights, if any, in respect of the shares of any class or any series of any class, to the extent that they have been determined, and the maximum number of shares of any series of any class that may be issued.

(3) A statement of any authority vested in the board of directors to divide the authorized and unissued shares into classes or series, or both, and to determine for any such class or series its voting rights, designations, preferences, limitations and special rights.

§ 2923. Issuance and retention of shares.

(a) General rule.—Shares in a professional corporation may be *beneficially* owned, directly or indirectly, only by one or more licensed persons and any *issuance or transfer of* shares [issued] in violation of this restriction shall be void. A shareholder of a professional corporation shall not enter into a voting trust, proxy or any other arrangement vesting another person (other than another licensed person who is a direct or indirect shareholder of the same corporation) with the authority to exercise the voting power of any or all of his shares, and any such purported voting trust, proxy or other arrangement shall be void.

**[(b) Transfer of shares.—Shares in a professional corporation may be transferred only to or on behalf of a licensed person or to the professional corporation. Any transfer in violation of this restriction shall be void.]**

(c) **(b)** Ownership by estate.—Unless a lesser period of time is provided in a bylaw of the corporation adopted by the shareholders or in a written agreement among the shareholders of the corporation, the estate of a deceased shareholder may continue to hold shares of the professional corporation for a reasonable period of administration of the estate, but the personal representative of the estate shall not by reason of the retention of shares be authorized to participate in any decisions concerning the rendering of professional service.

**[(d)] (c)** Interstate application.—Where the activities in this Commonwealth of a person who is a licensed person under the laws of another jurisdiction would be unlawful unless that person were also a licensed person under the laws of this Commonwealth, shares of a professional corporation shall not be issued to or retained by or on behalf of him unless he is also a licensed person under the laws of this Commonwealth. Except as provided in the preceding sentence, this chapter shall not be construed to require that any proportion or number of the holders or beneficial owners of a professional corporation who are licensed persons shall be licensed persons under the laws of this Commonwealth.

## CHAPTER 31 INSURANCE CORPORATIONS

### Subchapter

- A. Preliminary Provisions
- B. Powers, Duties and Safeguards
- C. Officers, Directors and Shareholders

### SUBCHAPTER A PRELIMINARY PROVISIONS

#### Sec.

- 3101. Application and effect of chapter.
- 3102. Definitions.

§ 3101. Application and effect of chapter.

(a) General rule.—This chapter shall be applicable to a business corporation that is a domestic insurance corporation.

(b) Application to business corporations generally.—The existence of a provision of this chapter shall not of itself create any implication that a contrary or different rule of law is or would be applicable to a business corporation that is not an insurance corporation. This chapter shall not affect any statute or rule of law that is or would be applicable to a business corporation that is not an insurance corporation.

(c) Laws applicable to insurance corporations.—Except as otherwise provided in this chapter, this subpart shall be generally applicable to all insurance corporations. The specific provisions of this chapter shall control over the general provisions of this subpart. Except as otherwise provided in this article, an insurance corporation may be simultaneously subject to this chapter and one or more other chapters of this article.

§ 3102. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Insurance corporation” or “domestic insurance corporation.” A domestic business corporation that is engaged in the business of writing insurance or reinsurance as principal and as such is subject to regulation by the Insurance Department.

“Mutual insurance company.” An insurance corporation that is organized on the mutual principle.

## SUBCHAPTER B POWERS, DUTIES AND SAFEGUARDS

Sec.

3121. Bylaws.

3122. Distributions by insurance corporations.

§ 3121. Bylaws.

Except as provided in section 1504(b) (relating to adoption, amendment and contents of bylaws), the board of directors of an insurance corporation shall have the authority to adopt, amend and repeal bylaws, subject to the power of the members to change such action. The articles may restrict the authority of the board to adopt, amend or repeal bylaws generally or on any subject or class of subjects.

§ 3122. Distributions by insurance corporations.

The amount of capital received by an insurance corporation upon its stock shall be a liability of the corporation for the purpose of determining the power of the corporation to make any distribution of money or other assets to its shareholders or members.



SUBCHAPTER C  
OFFICERS, DIRECTORS AND SHAREHOLDERS

Sec.

3131. Directors.

3132. Officers.

3133. Notice of meetings of members of mutual insurance companies.

3134. Quorum at shareholder or member meetings.

3135. Proxies of members of mutual insurance companies.

3136. Judges of election.

3137. Appointment of custodian.

3138. Judicial supervision of corporate action.

§ 3131. Directors.

(a) Qualifications.—Two-thirds of the directors of an insurance corporation shall be citizens of the United States.

(b) Number.—The board of directors of an insurance corporation shall consist of not less than seven members.

§ 3132. Officers.

The president, secretary and treasurer of an insurance corporation shall be different persons. The treasurer shall be a natural person of full age. The president shall be a director of the corporation.

§ 3133. Notice of meetings of members of mutual insurance companies.

(a) General rule.—Unless otherwise restricted in the bylaws, persons authorized or required to give notice of an annual meeting of members of a mutual insurance company for the election of directors or of a meeting of members of a mutual insurance company called for the purpose of considering an amendment of the articles of the corporation may, in lieu of any written notice of meeting of members required to be given by this subpart, give notice of such meeting by causing notice of such meeting to be officially published. Such notice shall be published each week for at least:

(1) Three successive weeks, in the case of an annual meeting.

(2) Four successive weeks, in the case of a meeting to consider an amendment of the articles.

(b) Cross reference.—See 1 Pa.C.S. § 1909 (relating to time; publication for successive weeks).

§ 3134. Quorum at shareholder or member meetings.

The board of directors of an insurance corporation may adopt or change a bylaw on any subject otherwise expressly committed to the shareholders or members by section 1756(a) (relating to quorum).

§ 3135. Proxies of members of mutual insurance companies.

In no event shall a proxy given by a member of a mutual insurance company, unless coupled with an interest, be voted on or utilized to express consent or dissent to corporate action in writing after 11 months from the date of execution of the proxy.

§ 3136. Judges of election.

The board of directors of an insurance corporation may adopt or change a bylaw on any subject otherwise expressly committed to the shareholders or members by section 1765 (relating to judges of election).

§ 3137. Appointment of custodian.

Section 1767 (relating to appointment of custodian of corporation on deadlock or other cause) shall not be applicable to an insurance corporation.

§ 3138. Judicial supervision of corporate action.

Subchapter G of Chapter 17 (relating to judicial supervision of corporate action) shall not be applicable to an insurance corporation, insofar as inconsistent with the jurisdiction of the Insurance Department.

§ 4101. Application of article.

(a) **General rule.**—Except as otherwise provided in this section or in subsequent provisions of this article, this article shall apply to and the words “corporation” or “foreign business corporation” in this article shall include every foreign corporation for profit, including a corporation that, if a domestic corporation for profit, would be a banking institution, credit union[, **insurance corporation**] or savings association.

(b) **Domestic Federal financial institution exclusion.**—Except as permitted by act of Congress, this article shall not apply to:

(1) Any of the following institutions or similar *federally chartered* institutions engaged in this Commonwealth in activities similar to those conducted by banking institutions, saving associations or credit unions:

(i) National banking associations organized under The National Bank Act (13 Stat. 99, 12 U.S.C. § 1 et seq.).

(ii) Federal savings and loan associations and Federal mutual savings banks organized under the Home Owners’ Loan Act of 1933 (48 Stat. 128, 12 U.S.C. § 1461 et seq.).

(iii) Federal credit unions organized under the Federal Credit Union Act (48 Stat. 1216, 12 U.S.C. § 1751 et seq.).

(2) Any other Federal corporation intended by the Congress to be treated for state law purposes as a domestic corporation of this Commonwealth.

**[(c) Qualified insurance corporation exclusion.—This article shall not apply to any foreign corporation for profit qualified to do business in this Commonwealth under the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, except as otherwise expressly provided by statute applicable to the corporation.]**

§ 4121. Admission of foreign corporations.

\* \* \*

(b) **Qualification under former statutes.**—If a foreign corporation for profit was on March 19, 1966, admitted to do business in this Commonwealth by the filing of a power of attorney and statement under the act of June 8, 1911 (P.L.710, No.283), the power of attorney and statement shall be deemed an approved application for a certificate of authority issued under this subchapter and the corporation shall be deemed a holder of the certificate. The corporation shall include in its initial application, if any, for an

amended certificate of authority under this subchapter the information required by this subchapter to be set forth in an application for a certificate of authority. A certificate of authority issued under the former provisions of [the act of May 5, 1933 (P.L.364, No.106), known as] the Business Corporation Law of 1933[,] shall be deemed to be issued under this subchapter, and the certificate of authority shall be deemed not to contain any reference to the kind of business that the corporation proposes to do in this Commonwealth.

*(c) Foreign insurance corporations.—A foreign insurance corporation shall not be required to procure a certificate of authority under this subchapter.*

§ 4123. Requirements for foreign corporation names.

(a) General rule.—The Department of State shall not issue a certificate of authority to any foreign business corporation that, except as provided in subsection (b), has a name that is rendered unavailable for use by a domestic business corporation by any provision of section 1303(a), (b) or (c) (relating to corporate name), except [subsections] *subsection* (c)(1)(ii) [or (iii)] thereof (relating to banking [and insurance] names).

**(b) Exception; name.—The provisions of section 1303(b) (relating to duplicate use of names) shall not prevent the issuance of a certificate of authority to a foreign business corporation setting forth a name that is confusingly similar to the name of any other domestic or foreign corporation for profit or corporation not-for-profit, or of any domestic or foreign limited partnership that has filed a certificate or qualified under Chapter 85 (relating to limited partnerships) or corresponding provisions of prior law, or of any corporation or other association then registered under 54 Pa.C.S. Ch. 5 (relating to corporate and other association names) or to any name reserved or registered as provided in this part, if the foreign business corporation applying for a certificate of authority files in the department one of the following:**

**(1) A resolution of its board of directors adopting a fictitious name for use in transacting business in this Commonwealth which fictitious name is not confusingly similar to the name of the other corporation or other association or to any name reserved or registered as provided in this part.**

**(2) The written consent of the other corporation or other association or holder of a reserved or registered name to use the same or confusingly similar name and one or more words are added to make the name applied for distinguishable from the other name.]**

**(b) Exceptions.—**

**(1) The provisions of section 1303(b) (relating to duplicate use of names) shall not prevent the issuance of a certificate of authority to a foreign business corporation setting forth a name that is confusingly similar to the name of any other domestic or foreign corporation for profit or corporation not-for-profit, or of any domestic or foreign limited partnership that has filed a certificate or qualified under Chapter 85 (relating to limited partnerships) or corresponding provisions of prior law, or of**

*any corporation or other association then registered under 54 Pa.C.S. Ch. 5 (relating to corporate and other association names) or to any name reserved or registered as provided in this part, if the foreign business corporation applying for a certificate of authority files in the department one of the following:*

*(i) A resolution of its board of directors adopting a fictitious name for use in transacting business in this Commonwealth, which fictitious name is not confusingly similar to the name of the other corporation or other association or to any name reserved or registered as provided in this part and that is otherwise available for use by a domestic business corporation.*

*(ii) The written consent of the other corporation or other association or holder of a reserved or registered name to use the same or confusingly similar name and one or more words are added to make the name applied for distinguishable from the other name.*

*(2) The provisions of section 1303(c) (relating to required approvals or conditions) shall not prevent the issuance of a certificate of authority to a foreign business corporation setting forth a name that is prohibited by that subsection if the foreign business corporation applying for a certificate of authority files in the department a resolution of its board of directors adopting a fictitious name for use in transacting business in this Commonwealth that is available for use by a domestic business corporation.*

§ 4125. Issuance of certificate of authority.

Upon the filing of the application for a certificate of authority, [the Department of State shall issue to] the foreign business corporation *shall be deemed to hold* a certificate of authority to do business in this Commonwealth. [The certificate of authority shall be annexed to or endorsed upon the application for a certificate of authority and shall state that, subject to the Constitution and laws of this Commonwealth, the corporation named in the application is authorized to do business in this Commonwealth.]

§ 4126. Amended certificate of authority.

\* \* \*

(b) Issuance of amended certificate of authority.—Upon the filing of the application, [the department shall issue to] the applicant corporation *shall be deemed to hold* an amended certificate of authority. [The amended certificate of authority shall be annexed to or endorsed upon the application for an amended certificate of authority and shall state that the certificate of authority of the corporation named in the application is amended to reflect the change of name specified in the application.]

\* \* \*

§ 4128. Revocation of certificate of authority.

\* \* \*

(c) *Exception.—Subsections (a) and (b) shall not apply to a foreign insurance corporation.*

§ 4129. Application for termination of authority.

(a) General rule.—Any qualified foreign business corporation may withdraw from doing business in this Commonwealth and surrender its certificate

of authority by filing in the Department of State an application for termination of authority, executed by the corporation, which shall set forth:

(1) The name of the corporation and, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its last registered office in this Commonwealth.

(2) The name of the jurisdiction under the laws of which it is incorporated.

(3) The date on which it received a certificate of authority to do business in this Commonwealth.

(4) A statement that it surrenders its certificate of authority to do business in this Commonwealth.

(5) A statement that notice of its intention to withdraw from doing business in this Commonwealth was mailed by certified or registered mail to each municipal corporation in which the registered office or principal place of business of the corporation in this Commonwealth is located, *and that the official publication required by subsection (b) has been affected.*

(6) The post office address, including street and number, if any, to which process may be sent in an action or proceeding upon any liability incurred before the filing of the application for termination of authority.

\* \* \*

§ 4142. General powers and duties of qualified foreign corporations.

\* \* \*

*(c) Foreign insurance corporations.—A foreign insurance corporation shall, insofar as it is engaged in the business of writing insurance or reinsurance as principal, be subject to the laws of this Commonwealth regulating the business of insurance in lieu of the provisions of subsection (a).*

§ 4146. Provisions applicable to all foreign corporations.

The following provisions of this subpart shall, except as otherwise provided in this section, be applicable to every foreign corporation for profit, whether or not required to procure a certificate of authority under this chapter:

Section 1503 (relating to defense of ultra vires), as to contracts and conveyances made in this Commonwealth and conveyances affecting real property situated in this Commonwealth.

Section 1506 (relating to form of execution of instruments), as to instruments or other documents made or to be performed in this Commonwealth or affecting real property situated in this Commonwealth.

Section 1510 (relating to [usury not a defense] *certain specifically authorized debt terms*), as to obligations (as defined in the section) executed or effected in this Commonwealth or affecting real property situated in this Commonwealth.

Section 1782 (relating to actions against directors and officers), *as to any action or proceeding brought in a court of this Commonwealth.*

Subchapter F of Chapter 25 (relating to business combinations), to the extent provided in section 2551(d) (relating to continuing applicability).

## § 4161. Domestication.

\* \* \*

(b) Articles of domestication.—The articles of domestication shall be executed by the corporation and shall set forth in the English language:

\* \* \*

(6) A statement that the filing of articles of domestication and, *if desired*, the renunciation of the original charter or articles of the corporation has been authorized (unless its charter or other organic documents require a greater vote) by a majority of the votes cast by all shareholders entitled to vote thereon and, if any class of shares is entitled to vote thereon as a class, a majority of the votes cast in each class vote.

\* \* \*

## § 5102. Application of subpart.

(a) General rule.—Except as otherwise provided in this section, in the scope provisions of subsequent provisions of this subpart or where the context clearly indicates otherwise, this subpart shall apply to and the words “corporation” or “nonprofit corporation” in this subpart shall mean a domestic corporation not-for-profit. See section 101(b) (relating to application of title).

(b) *Coordination with other laws.*—*Where any other provision of law contemplates notice to, the presence of, or the vote, consent or other action by the members, directors or officers of a nonprofit corporation, without specifying the applicable corporate standards and procedures, the standards and procedures specified by or pursuant to this subpart shall be applicable.*

(c) *Exclusion.*—*This subpart shall not apply to a fraternal benefit society, whether proposed or existing, except as otherwise expressly provided in this subpart or as otherwise provided by statute applicable to the fraternal benefit society.*

(d) Cooperative corporations.—This subpart shall apply to a domestic corporation not-for-profit organized on the cooperative principle only to the extent provided by Subpart D (relating to cooperative corporations).

**[c]** (e) Nonprofit corporation ancillaries.—The domestic corporation provisions of this subpart shall apply to any of the following corporations, whether proposed or existing, except as otherwise expressly provided by statute applicable to the corporation:

(1) The Pennsylvania Deposit Insurance Corporation established by the act of October 5, 1978 (P.L.1088, No.255), known as the Pennsylvania Deposit Insurance Corporation Act.

(2) The Pennsylvania Savings Association Corporation established by the act of April 6, 1979 (P.L.17, No.5), referred to as the Pennsylvania Savings Association Insurance Corporation Act.

(3) The Lawyer Trust Account Board established by the act of April 29, 1988 (P.L.373, No.59), known as the Interest on Lawyers’ Trust Accounts Act.

(4) Any other domestic corporation not-for-profit incorporated under or subject to a statute that provides that the corporate affairs of the corporation shall be governed by the laws applicable to domestic nonprofit corporations.

§ 5103. Definitions.

Subject to additional definitions contained in subsequent provisions of this subpart **[which] that** are applicable to specific **[articles, chapters or other]** provisions of this subpart, the following words and phrases[,], when used in this subpart shall have[, unless the context clearly indicates otherwise,] the meanings given to them in this section *unless the context clearly indicates otherwise*:

“Act” or “action.” *Includes failure to act.*

“Articles.” The original articles of incorporation, all amendments **[thereto, articles of merger and consolidation] thereof**, and any other articles, statements or certificates permitted or required to be filed **[by] in the Department of State by sections 108 (relating to change in location or status of registered office provided by agent) and 138 (relating to statement of correction) or this subpart [or by Chapter 1 (relating to general provisions),]** and including what have heretofore been designated by law as certificates of incorporation or charters. If an amendment *of the articles* or articles of merger[,], or division **[or conversion]** made in the manner permitted by this subpart restates articles in their entirety or if there are articles of consolidation, *conversion or domestication*, thenceforth the “articles” shall not include any prior documents and any certificate issued by the **[Department of State] department** with respect thereto shall so state.

“Board of directors” or “board.” The group of persons vested with the management of the business and affairs of the corporation irrespective of the name by which such group is designated. The term does not include an other body. The term, when used in any provision of this subpart relating to the organization or procedures of or the manner of taking action by the board of directors, shall be construed to include and refer to any executive or other committee of the board. Any provision of this subpart relating or referring to action to be taken by the board of directors or the procedure required therefor shall be satisfied by the taking of corresponding action by a committee of the board of directors to the extent authority to take such action has been delegated to such committee pursuant to section 5731 (relating to executive and other committees of the board).

“Business.” **[In the case of a domestic nonprofit corporation, any] Any** or all of the activities for which **[it] a corporation** has been incorporated[, and, in the case of a foreign corporation not-for-profit, any or all of the activities in which its certificate of authority authorizes it to engage within this Commonwealth].

“Bylaws.” The code or codes of rules adopted for the regulation or management of the business and affairs of the corporation irrespective of the name or names by which such rules are designated.

“Charitable purposes.” The relief of poverty, the advancement of education, the advancement of religion, the promotion of health, governmental or municipal purposes, and other purposes the accomplishment of which is beneficial to the community.

“Common trust fund.” A fund maintained by the corporation for the collective investment and reinvestment of trust assets, and any other funds contributed thereto by such corporation, as fiduciary or otherwise.

**“Corporation for profit.”** *A corporation incorporated for a purpose or purposes involving pecuniary profit, incidental or otherwise, to its shareholders or members.*

**“Corporation not-for-profit.”** *A corporation not incorporated for a purpose or purposes involving pecuniary profit, incidental or otherwise.*

**“Court.”** *Subject to any inconsistent general rule prescribed by the Supreme Court of Pennsylvania:*

(1) *the court of common pleas of the judicial district embracing the county where the registered office of the corporation is or is to be located; or*

(2) *where a corporation results from a merger, consolidation, division or other transaction without establishing a registered office in this Commonwealth or withdraws as a foreign corporation, the court of common pleas in which venue would have been laid immediately prior to the transaction or withdrawal.*

**“Department.”** *The Department of State of the Commonwealth.*

**“Directors.”** *Persons designated, elected or appointed, by that or any other name or title, to act as directors, and their successors. The term does not include a member of an other body, as such. The term, when used in relation to any power or duty requiring collective action, shall be construed to mean “board of directors.”*

**“Domestic corporation for profit.”** *A corporation for profit incorporated under the laws of this Commonwealth.*

**“Domestic corporation not-for-profit.”** *A corporation not-for-profit incorporated under the laws of this Commonwealth.*

**“Entitled to vote.”** *Those persons entitled to vote on the matter under either the bylaws of the corporation or any applicable controlling provision of law.*

**“Foreign corporation for profit.”** *A corporation for profit incorporated under any laws other than those of this Commonwealth.*

**“Foreign corporation not-for-profit.”** *A corporation not-for-profit incorporated under any laws other than those of this Commonwealth.*

**“Foreign nonprofit corporation.”** *A foreign corporation not-for-profit or other entity subject to Chapter 61 (relating to foreign nonprofit corporations), whether or not required to qualify thereunder.*

**“Fraternal benefit society.”** *A domestic corporation not-for-profit that is a society as defined in the act of July 29, 1977 (P.L.105, No.38), known as the Fraternal Benefit Society Code.*

**“Full age.”** *Of the age of 18 years or over.*

**“Incorporator.”** *A signer of the original articles of incorporation.*

**“Member.”** *One having membership rights in a corporation in accordance with the provisions of its bylaws. The term, when used in relation to the taking of corporate action includes:*

(1) *the proxy of a member, if action by proxy is permitted under the bylaws of the corporation; and*

(2) *a delegate to any convention or assembly of delegates of members established pursuant to any provision of this subpart.*



If and to the extent the bylaws confer rights of members upon holders of securities evidencing indebtedness or governmental or other entities pursuant to any provision of this subpart the term shall be construed to include such security holders and governmental or other entities. The term shall be construed to include "shareholder" if the corporation issues shares of stock.

"Nonprofit corporation" or "domestic nonprofit corporation." A domestic corporation not-for-profit which is not excluded from the scope of this subpart by section 5102 (relating to application of subpart).

"Nonqualified foreign corporation[.]" or "*nonqualified foreign nonprofit corporation.*" A foreign corporation not-for-profit which is not a qualified foreign corporation, as defined in this section.

"*Officer.*" *If a corporation is in the hands of a custodian, receiver, trustee or like official, the term includes that official or any person appointed by that official to act as an officer for any purpose under this subpart.*

"Other body." A term employed in this subpart to denote a person or group, other than the board of directors or a committee thereof, who pursuant to authority expressly conferred by this subpart may be vested by the bylaws of the corporation with powers which, if not vested by the bylaws in such person or group, would by this subpart be required to be exercised by either:

- (1) the membership of a corporation taken as a whole;
- (2) a convention or assembly of delegates of members established pursuant to any provision of this subpart; or
- (3) the board of directors.

Except as otherwise provided in this subpart a corporation may establish distinct persons or groups to exercise different powers which this subpart authorizes a corporation to vest in an other body.

"Qualified foreign corporation[.]" or "*qualified foreign nonprofit corporation.*" A foreign corporation not-for-profit authorized under Chapter 61 (relating to foreign nonprofit corporations) to do business in this Commonwealth.

"Registered office." That office maintained by a corporation in this Commonwealth, the address of which is filed in the Department of State or which was recorded in the office of the recorder of deeds in the manner formerly required by statute.

"*Relax.*" *When used with respect to a provision of the articles or bylaws, means to provide lesser rights for an affected representative or member.*

"Representative." When used with respect to a corporation, partnership, joint venture, trust or other enterprise, means a director, officer, employee or agent thereof.

"Trust instrument." Any lawful deed of gift, grant, will or other document by which the donor, grantor or testator shall give, grant or devise any real or personal property or the income therefrom in trust for any charitable purpose.

“Unless otherwise provided.” When used to introduce a rule implies that the alternative provisions contemplated may either relax or restrict the stated rule.

“Unless otherwise restricted.” When used to introduce a rule implies that the alternative provisions contemplated may further restrict, but may not relax, the stated rule.

§ 5104. Other general provisions.

The following provisions of this title are applicable to corporations subject to this subpart:

Section 101 (relating to short title and application of title).

Section 102 (relating to definitions).

Section 103 (relating to subordination of title to regulatory laws).

Section 104 (relating to equitable remedies).

Section 105 (relating to fees).

Section 106 (relating to effect of filing papers required to be filed).

Section 107 (relating to form of records).

Section 108 (relating to change in location or status of registered office provided by agent).

Section 109 (relating to name of commercial registered office provider in lieu of registered address).

Section 110 (relating to supplementary general principles of law applicable).

Section 132 (relating to functions of Department of State).

Section 133 (relating to powers of Department of State).

Section 134 (relating to docketing statement).

Section 135 (relating to requirements to be met by filed documents).

Section 136 (relating to processing of documents by Department of State).

Section 137 (relating to court to pass upon rejection of documents by Department of State).

Section 138 (relating to statement of correction).

Section 139 (relating to tax clearance of certain fundamental transactions).

*Section 140 (relating to custody and management of orphan corporate and business records).*

*Section 152 (relating to definitions).*

*Section 153 (relating to fee schedule).*

*Section 154 (relating to enforcement and collection).*

*Section 155 (relating to disposition of funds).*

[Section 151 (relating to domestication of certain foreign associations).]

Section [152] 162 (relating to contingent domestication of certain foreign associations).

Section 501 (relating to reserved power of General Assembly).

Section 503 (relating to actions to revoke corporate franchises).

Section 504 (relating to validation of certain defective corporations).

Section 505 (relating to validation of certain defective corporate acts).

[Section 511 (relating to standard of care and justifiable reliance).

Section 512 (relating to personal liability of directors).

Section 513 (relating to nonexclusivity and supplementary coverage).]

Section 2552 (relating to definitions) (definitions of "affiliate" and "associate").

§ 5110. *Annual report.*

(a) *General rule.*—On or before April 30 of each year, a corporation described in subsection (b) that has effected any change in its officers during the preceding calendar year shall file in the Department of State a statement executed by the corporation and setting forth:

(1) *The name of the corporation.*

(2) *The post office address, including street and number, if any, of its principal office.*

(3) *The names and titles of the persons who are its principal officers.*

(b) *Application.*—This section shall apply to every:

(1) *domestic nonprofit corporation that has been incorporated after December 31, 1972, or that has filed a summary of record with the Department of State after December 31, 1972; and*

(2) *qualified foreign nonprofit corporation.*

(c) *Separate change in registered office required.*—A filing under this section shall not constitute compliance with section 5507(b) (relating to registered office).

(d) *Fee.*—No fee shall be charged for effecting a filing under this section.

(e) *Cross reference.*—See section 134 (relating to docketing statement).

§ 5301. *Purposes.*

[Corporations] (a) *General rule.*—Except as provided in subsection (b), corporations may be incorporated under this article for any lawful purpose or purposes, including, but not limited to, any one or more of the following or similar purposes: athletic; any lawful business purpose to be conducted on a not-for-profit basis; beneficial; benevolent; cemetery; charitable; civic; control of fire; cultural; educational; encouragement of agriculture or horticulture; fraternal; [fraternal benefit;] health; literary; missionary; musical; mutual improvement; patriotic; political; prevention of cruelty to persons or animals; professional, commercial, industrial, trade, service or business associations; promotion of the arts; protection of natural resources; religious; research; scientific and social.

(b) *Exception.*—Except as otherwise provided by Title 40 (relating to insurance) or the act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act, a corporation may not be incorporated under this article for the purpose of engaging in the business of writing insurance or reinsurance as principal.

§ 5303. *Corporate name.*

(a) *General rule.*—The corporate name may be in any language, but must be expressed in Roman letters or characters or Arabic or Roman numerals.

(b) *Duplicate use of names.*—The corporate name shall not be the same as or confusingly similar to:

**(1) The name of any other domestic corporation for profit or not-for-profit which is either in existence or for which articles of incorporation have been filed but have not yet become effective, or of any foreign corporation for profit or not-for-profit which is either authorized to do business in this Commonwealth or for which an application for a certificate of authority has been filed but which has not yet become effective, or of any domestic or foreign limited partnership that has filed in the Department of State a certificate or qualified under Chapter 85 (relating to limited partnerships) or under corresponding provisions of prior law, or the name of any association registered at any time under 54 Pa.C.S. Ch. 5 (relating to corporate and other association names), unless:**

**(i) where the name is the same or confusingly similar, the other association:**

**(A) has stated that it is about to change its name, or to cease to do business, or is being wound up, or is a foreign association about to withdraw from doing business in this Commonwealth, and the statement and the written consent of the other association to the adoption of the name is filed in the Department of State;**

**(B) has filed with the Department of Revenue a certificate of out of existence, or has failed for a period of three successive years to file with the Department of Revenue a report or return required by law and the fact of such failure has been certified by the Department of Revenue to the Department of State;**

**(C) has abandoned its name under the laws of its jurisdiction of incorporation, by amendment, merger, consolidation, division, expiration, dissolution or otherwise, without its name being adopted by a successor in a merger, consolidation, division or otherwise, and an official record of that fact, certified as provided by 42 Pa.C.S. § 5328 (relating to proof of official records), is presented by any person to the department; or**

**(D) has had the registration of its name under 54 Pa.C.S. Ch. 5 terminated and, if the termination was effected by operation of 54 Pa.C.S. § 504 (relating to effect of failure to make decennial filings), the application for the use of the name is accompanied by a verified statement stating that at least 30 days' written notice of intention to appropriate the name was given to the delinquent association at its registered office and that, after diligent search by the affiant, the affiant believes the association to be out of existence; or**

**(ii) where the name is confusingly similar, the consent of the other association to the adoption of the name is filed in the Department of State.**

**The consent of the association shall be evidenced by a statement to that effect executed by the association.**

**(2) A name the exclusive right to which is at the time reserved by any other person whatsoever in the manner provided by statute. A name shall be rendered unavailable for corporate use by reason of the filing in the Department of State of any assumed or fictitious name required by 54**

*Pa.C.S. Ch. 3 (relating to fictitious names) to be filed in the department only if and to the extent expressly so provided in that chapter.*

**(c) Required approvals or conditions.—**

**(1) The corporate name shall not imply that the corporation is:**

**(i) A governmental agency of the Commonwealth or of the United States.**

**(ii) A bank, bank and trust company, savings bank, private bank or trust company, as defined in the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965.**

**(iii) An insurance company.**

**(iv) A public utility as defined in 66 Pa.C.S. § 102 (relating to definitions).**

**(v) A credit union. See 17 Pa.C.S. § 104 (relating to prohibition on use of words "credit union," etc.).**

**(2) The corporate name shall not contain:**

**(i) The word "college," "university" or "seminary" when used in such a way as to imply that it is an educational institution conforming to the standards and qualifications prescribed by the State Board of Education, unless there is submitted a certificate from the Department of Education certifying that the corporation or proposed corporation is entitled to use that designation.**

**(ii) Words that constitute blasphemy, profane cursing or swearing or that profane the Lord's name.**

**(iii) The words "engineer" or "engineering" or "surveyor" or "surveying" or any other word implying that any form of the practice of engineering or surveying as defined in the act of May 23, 1945 (P.L.913, No.367), known as the Professional Engineers Registration Law, is provided unless at least one of the incorporators of a proposed corporation or the directors of the existing corporation has been properly registered with the State Registration Board for Professional Engineers in the practice of engineering or surveying and there is submitted to the department a certificate from the board to that effect.**

**(iv) The words "Young Men's Christian Association" or any other words implying that the corporation is affiliated with the State Young Men's Christian Association of Pennsylvania unless the corporation is incorporated for the purpose of the improvement of the spiritual, mental, social and physical condition of young people, by the support and maintenance of lecture rooms, libraries, reading rooms, religious and social meetings, gymnasiums, and such other means and services as may conduce to the accomplishment of that object, according to the general rules and regulations of such State association.**

**(v) The words "architect" or "architecture" or any other word implying that any form of the practice of architecture as defined in the act of December 14, 1982 (P.L.1227, No.281), known as the Architects Licensure Law, is provided unless at least one of the incorporators of a proposed corporation or the directors of the existing corporation has been properly registered with the Architects Licensure Board in the**

*practice of architecture and there is submitted to the department a certificate from the board to that effect.*

(vi) *The word "cooperative" or an abbreviation thereof unless the corporation is a cooperative corporation.*

(d) *Other rights unaffected.—This section shall not abrogate or limit the law as to unfair competition or unfair practices, nor derogate from the common law, the principles of equity or the provisions of Title 54 (relating to names) with respect to the right to acquire and protect trade names. Subsection (b) shall not apply if the applicant files in the department a certified copy of a final order of a court of competent jurisdiction establishing the prior right of the applicant to the use of a name in this Commonwealth.*

(e) *Remedies for violation of section.—The use of a name in violation of this section shall not vitiate or otherwise affect the corporate existence but any court having jurisdiction, upon the application of:*

(1) *the Attorney General, acting on his own motion or at the instance of any administrative department, board or commission of this Commonwealth; or*

(2) *any person adversely affected;*

*may enjoin the corporation from using or continuing to use a name in violation of this section.*

§ 5305. *Reservation of corporate name.*

(a) *General rule.—The exclusive right to the use of a corporate name may be reserved by any person. The reservation shall be made by delivering to the Department of State an application to reserve a specified corporate name, executed by the applicant. If the department finds that the name is available for corporate use, it shall reserve the name for the exclusive use of the applicant for a period of 120 days.*

(b) *Transfer of reservation.—The right to exclusive use of a specified corporate name reserved under subsection (a) may be transferred to any other person by delivering to the department a notice of the transfer, executed by the person who reserved the name, and specifying the name and address of the transferee.*

(c) *Cross references.—See sections 134 (relating to docketing statement) and 6131 (relating to registration of name).*

§ 5306. *Articles of incorporation.*

(a) *General rule.—Articles of incorporation shall be signed by each of the incorporators[,] and shall set forth[,] in the English language:*

(1) *The name of the corporation, unless the name is in a foreign language[,] in which case it shall be set forth in [English] Roman letters or characters or Arabic or Roman numerals.*

(2) *[The] Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its initial registered office in this Commonwealth.*

(3) *A brief statement of the purpose or purposes for which the corporation is incorporated.*

(4) A statement that the corporation is one which does not contemplate pecuniary gain or profit, incidental or otherwise.

(5) **[The term for which it is to exist, which may be perpetual] A statement that the corporation is incorporated under the provisions of the Non-profit Corporation Law of 1988.**

(6) A statement whether the corporation is to be organized upon a nonstock basis or a stock share basis, and, if it is to be organized on a stock share basis:

(i) The aggregate number of shares **[which] that** the corporation shall have authority to issue~~], and, if the shares are to consist of one class only, the par value of each of the shares or a statement that all of the shares are without par value, or if the shares are to be divided into classes, the number of shares of each class, if any, that are to have a par value and the par value of each share of each class and the number of shares of each class, if any, that are to be without par value].~~ It shall not be necessary to set forth in the ~~[original]~~ articles the designations of the classes of shares of the corporation *or the maximum number of shares of each class that may be issued.*

(ii) A statement of the *voting rights*, designations, preferences, ~~[qualifications,] limitations[, restrictions]~~ and ~~[the] special [or relative] rights in respect of the shares of any class [the fixing of which by the articles of incorporation is desired] or any series of any class, to the extent that they have been determined.~~

(iii) A statement of ~~[such authority as it may then be desired to vest in the members,] any authority vested in the~~ board of directors or other body to ~~[fix by provision in the bylaws any] divide by provision in the bylaws the authorized and unissued shares into classes or series, or both, and to determine for any class or series its voting rights,~~ designations, preferences, ~~[qualifications,] limitations[, restrictions,]~~ and special ~~[or relative] rights [of any class that may be desired but which shall not be fixed in the articles].~~

(7) If the corporation is to have no members, a statement to that effect.

(8) The name and address, including street and number, if any, of each of the incorporators.

(9) *The term for which the corporation is to exist, if not perpetual.*

(10) *If the articles are to be effective on a specified date, the hour, if any, and the month, day and year of the effective date.*

~~[(9)] (11)~~ Any other provisions **[which] that** the incorporators may choose to insert if:

(i) any provision of this ~~[article] subpart~~ authorizes or requires provisions pertaining to the subject matter thereof to be set forth in the articles or bylaws of a nonprofit corporation or in an agreement or other instrument; or

(ii) such provisions~~], whether or not specifically authorized by this article,] are not inconsistent with this subpart and~~ relate to the ~~[regulation of the internal affairs or business of the corporation, or to] purpose~~

*or purposes of the corporation, the management of its business or affairs or the rights, powers or duties of its members, security holders, directors or officers.*

*(b) Par value.—The articles may, but need not, set forth a par value for any authorized shares or class or series of shares.*

**[(b)] (c)** Written consent to naming directors.—The naming of directors in articles of incorporation shall constitute an affirmation that such directors have consented in writing to serve as such.

§ 5311. Filing of **[certificate]** *statement* of summary of record by certain corporations.

**(a)** General rule.—**[Any nonprofit corporation which was not incorporated under this article and which]** *Where any of the valid charter documents of a nonprofit corporation are not on file in the Department of State and the corporation desires to file any document in the [Department of State] department under any other provision of this article or [which] the corporation desires to secure from the department any certificate to the effect that the corporation is a corporation duly incorporated and existing under the laws of this Commonwealth or a certified copy of the articles of the corporation, the corporation shall file in the department a [certificate] statement of summary of record[,]* which shall be executed **[under the seal of]** *by* the corporation **[by two duly authorized officers thereof]** and shall set forth:

**(1)** The name of the corporation and, *subject to section 109 (relating to name of commercial registered office provides in lieu of registered address)*, the location, including street and number, if any, of its registered office.

**(2)** The statute by or under which the corporation was incorporated.

**(3)** The name under which, the manner in which and the date on which the corporation was originally incorporated, including the date when and the place where the original articles were recorded.

**(4)** The place or places, including volume and page numbers or their equivalent, where the documents constituting the currently effective articles are filed or recorded, the date or dates of each such filing or recording[,]

and the text of such currently effective articles. The information specified in this paragraph may be omitted in a **[certificate] statement** of summary of record **[which]** *that* is delivered to the department contemporaneously with amended and restated articles of the corporation filed under this **[article] subpart**.

**(5)** Each name by which the corporation was known, if any, other than its original name and its current name, and the date or dates on which each change of name of the corporation became effective.

A corporation shall be required to make only one filing under this subsection.

**(b)** Validation of prior defects in incorporation.—Upon the filing of a **[certificate] statement** under this section, the corporation named in the **[certificate] statement** shall be deemed to be a validly subsisting corporation to the same extent as if it had been duly incorporated and was existing under this **[article] subpart** and the **[Department of State] department** shall so



certify regardless of any absence of or defect in the prior **[proceeding]** *proceedings* relating to incorporation.

(c) Cross reference.—See section 134 (relating to docketing statement).

SUBCHAPTER C  
REVIVAL  
**[(Reserved)]**

Sec.

5341. Statement of revival.

§ 5341. Statement of revival.

(a) General rule.—Any nonprofit corporation whose charter or articles have been forfeited by proclamation of the Governor pursuant to section 1704 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, or otherwise, or whose corporate existence has expired by reason of any limitation contained in its charter or articles and the failure to effect a timely renewal or extension of its corporate existence, may, at any time by filing a statement of revival, procure a revival of its charter or articles, together with all the rights, franchises, privileges and immunities and subject to all of its duties, debts and liabilities that had been vested in and imposed upon the corporation by its charter or articles as last in effect.

(b) Contents of statement.—The statement of revival shall be executed in the name of the forfeited or expired corporation and shall, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), set forth:

(1) The name of the corporation at the time its charter or articles were forfeited or expired and the address, including street and number, if any, of its last registered office.

(2) The statute by or under which the corporation was incorporated and the date of incorporation.

(3) The name that the corporation adopts as its new name if the adoption of a new name is required by section 5304 (relating to required name changes by senior corporations).

(4) The address, including street and number, if any, of its registered office in this Commonwealth.

(5) A reference to the proclamation or other action by which its charter or articles were forfeited or a reference to the limitation contained in its expired charter or articles.

(6) A statement that the corporate existence of the corporation shall be revived.

(7) A statement that the filing of the statement of revival has been authorized by the corporation. Every forfeited or expired corporation may act by its last directors or may elect directors and officers in the manner provided by this subpart for the limited purpose of effecting a filing under this section.

(c) Filing and effect.—The statement of revival and, in the case of a forfeited corporation, the clearance certificates required by section 139 (relating

to tax clearance of certain fundamental transactions) shall be filed in the Department of State. Upon the filing of the statement of revival, the corporation shall be revived with the same effect as if its charter or articles had not been forfeited or expired by limitation. The revival shall validate all contracts and other transactions made and effected within the scope of the articles of the corporation by its representatives during the time when its charter or articles were forfeited or expired to the same effect as if its charter or articles had not been forfeited or expired.

(d) Cross reference.—See section 134 (relating to docketing statement).  
§ 5502. General powers.

(a) General rule.—Subject to the limitations and restrictions imposed by statute and, except as otherwise provided in paragraph (4) [of this subsection], subject to the limitations and restrictions contained in its articles, every nonprofit corporation shall have power:

(1) To **[continue as a corporation for the time] have perpetual succession by its corporate name unless a limited period of duration is** specified in its articles, subject to the power of the Attorney General under section 503 (relating to actions to revoke corporate franchises) and to the power of the General Assembly under the Constitution of Pennsylvania.

(2) To sue and be sued, complain and defend[, **and participate as a party or otherwise in any judicial, administrative, arbitative or other proceeding**] in its corporate name.

(3) To have a corporate seal, which may be altered at pleasure, and to use the **[same] seal** by causing it or a facsimile thereof to be impressed or affixed[,] or in any manner reproduced.

(4) To acquire, own and **[dispose of] utilize** any real or personal property, or any interest therein, wherever situated, regardless of any limitation set forth in its articles prior to January 1, 1972 as to the quantity or value of real or personal property which it may hold, or as to the amount of income derived therefrom.

(5) To sell **[and convey, lease away], convey, mortgage, pledge, lease,** exchange or otherwise dispose of all or any part of its property and assets, or any interest therein, wherever situated.

(6) To guarantee, become surety for, acquire, own and dispose of obligations, capital stock and other securities[, **and evidences of indebtedness**].

(7) To borrow money, **[to] issue [its evidences of indebtedness, for labor done, or money or property, including shares of the corporation, if the corporation is organized on a stock share basis, properly acquirable by it, actually received and to] or incur its obligations and** secure any of its obligations by mortgage on or pledge of or security interest in all or any part of its property and assets, wherever situated, franchises or income, or any interest therein.

(8) To invest its **[surplus] funds, [to] lend money and [to] take and hold real and personal property as security for the [payment] repayment** of funds so invested or loaned.

(9) To make contributions and donations **[for charitable purposes]**.

(10) To use abbreviations, words, *logos* or symbols *upon the records of the corporation*, and in connection with the registration of, and inscription of ownership or entitlement on, certificates evidencing membership in **[the corporation or ownership of its] or securities [and upon the other records of the corporation,] or obligations of the corporation**, and upon checks, proxies, notices and other instruments and documents relating to the foregoing, which abbreviations, words, *logos* or symbols shall **[there-upon]** have the same force and effect as though the respective words and phrases for which they stand were set forth in full for the purposes of all statutes of this Commonwealth and all other purposes.

(11) To be a promoter, partner, member, associate or manager of any partnership, enterprise or venture or in any transaction, undertaking or arrangement **[which] that** the **[participating]** corporation would have power to conduct itself, whether or not **[such] its** participation involves sharing or delegation of control with or to others.

(12) To transact any lawful business **[which] that** the board of directors or other body **[shall find to be in] finds will aid [of]** governmental **[authority] policy**.

(13) To continue the salaries of such of its employees as may be serving in the *active or reserve* armed forces of the United States, or in the national guard or *in* any other organization established for the protection of the lives and property of citizens of *this Commonwealth or* the United States, during the term of **[such] that** service or during such part thereof as **[such] the** employees, by reason of **[such] that** service, may be unable to perform their duties as employees of the corporation.

(14) To **[grant allowances or] pay** pensions **[to its directors, officers and employees] and establish pension plans, pension trusts, profit sharing plans, share bonus plans, share option plans, incentive and deferred compensation plans and other plans or trusts for any or all of its present or former representatives** and, after their death, to *grant allowances or pensions* to their dependents or beneficiaries, whether or not **[such a] the** grant was made during their lifetime.

(15) To conduct its business, carry on its operations, **[and]** have offices and exercise the powers granted by this article *or any other provision of law* in any jurisdiction within or without the United States.

**[(16) To adopt, amend and repeal bylaws.**

**(17)] (16)** To elect or appoint and remove officers, employees and agents of the corporation, define their duties, fix their reasonable compensation and the reasonable compensation of directors, **[and to indemnify corporate personnel] to lend any of the foregoing money and credit and to pay bonuses or other additional compensation to any of the foregoing for past services.**

**[(18)] (17)** To enter into any obligation appropriate for the transaction of its affairs, *including contracts or other agreements with its members*.

**[(19)] (18)** To have and exercise all of the powers and means appropriate to effect the purpose or purposes for which the corporation is incorporated.

**[(20) To dissolve and wind up.]**

**(19) To have and exercise all other powers enumerated elsewhere in this subpart or otherwise vested by law in the corporation.**

(b) Enumeration unnecessary.—It shall not be necessary to set forth in the articles of the corporation the powers enumerated in subsection (a) **[of this section]**.

(c) Board to exercise.—**[Except as otherwise provided by statute or in the bylaws, the powers enumerated in this section and elsewhere in this article shall be exercised by the board of directors of the corporation.] See section 5721 (relating to board of directors).**

§ 5504. Adoption, *amendment* and contents of bylaws.

(a) General rule.—The members *entitled to vote* shall have the power to adopt, amend and repeal the bylaws of a nonprofit corporation**[, but except]**. *Except* as provided in subsection (b) **[of this section]**, the authority to adopt, amend and repeal bylaws may be expressly vested by the bylaws in the board of directors or other body, subject to the power of the members to change such action. **[Unless the bylaws otherwise provide, the powers hereby conferred shall be exercised by a majority vote of the members in office of the board of directors or other body, or by the vote of members entitled to cast at least a majority of the votes which all members present are entitled to cast thereon, as the case may be, at any regular or special meeting duly convened after notice to the members, directors or members of such other body of that purpose.]** The bylaws may contain any provisions for **[the regulation and management of]** *managing the business and regulating* the affairs of the corporation not inconsistent with law or the articles. *In the case of a meeting of members, written notice shall be given to each member entitled to vote that the purpose, or one of the purposes, of a meeting is to consider the adoption, amendment or repeal of the bylaws. There shall be included in or enclosed with the notice a copy of the proposed amendment or a summary of the changes to be effected thereby. Any change in the bylaws shall take effect when adopted unless otherwise provided in the resolution effecting the change.*

(b) Exception.—Except as provided in section 5310(a) (relating to organization meeting), the board of directors or other body shall not have the authority to adopt *or change* a bylaw on any subject **[which] that** is committed **[exclusively] expressly** to the members by any of the **[following]** provisions of this **[article:] subpart. See:**

*Subsection (d) (relating to amendment of voting provisions).*

*Section 5713 (relating to personal liability of directors).*

**[(1)]** Section 5721 (relating to board of directors).

**[(2)]** Section 5725(b) (relating to selection of directors).

**[(3)]** Section 5726(a) (relating to removal of directors by the members).

**[(4)]** Section 5726(b) (relating to removal of directors by the board).

**[(5)]** Section 5729 (relating to voting rights of directors).

**[(6)]** Section 5751(a) (relating to classes and qualifications of membership).

- [(7)] Section 5752(c) (relating to rights of shareholders).
- [(8)] Section 5754(a) (relating to members grouped in local units).
- [(9)] Section 5755(a) (relating to regular meetings).
- [(10)] Section 5756 (relating to quorum).
- [(11)] Section 5757 (relating to action by members).
- [(12)] Section 5758 (relating to voting rights of members).
- [(13)] Section 5759(a) (relating to voting and other action by proxy).
- [(14)] Section 5760(a) (relating to voting in nonprofit corporation matters).
- [(15)] Section 5762 (relating to judges of election).
- [(16)] Section 5766(a) (relating to termination and transfer of membership).
- [(17)] Section 5767 (relating to voting powers and other rights of certain security holders and other entities).
- [(18)] Section 5975(c) (relating to winding up and distribution).

(c) *Bylaw provisions in articles.*—Where any provision of this subpart *or any other provision of law* refers to a rule as set forth in the bylaws of a corporation [such], *the* reference shall be construed to include and be satisfied by any rule on the same subject as set forth in the articles of the corporation.

(d) *Amendment of voting provisions.*—*Unless otherwise restricted in a bylaw adopted by the members, whenever the bylaws require for the taking of any action by the members or a class of members a specific number or percentage of votes, the provision of the bylaws setting forth that requirement shall not be amended or repealed by any lesser number or percentage of votes of the members or of the class of members.*

§ 5505. Persons bound by bylaws.

[The] *Except as otherwise provided by section 5713 (relating to personal liability of directors) or any similar provision of law*, bylaws of a nonprofit corporation shall operate [merely] *only* as regulations among the members of the corporation, and shall not affect contracts or other dealings with other persons, unless [such] *those* persons have actual knowledge of [such] *the* bylaws.

§ 5507. Registered office.

(a) *General rule.*—Every nonprofit corporation shall have and continuously maintain in this Commonwealth a registered office which may, but need not, be the same as its place of business.

(b) [Change] *Statement of change of registered office.*—After incorporation, a change of the location of the registered office may be authorized at any time by [a majority vote of the members in office of] the board of directors or other body. Before [such] *the* change of location [shall become] *becomes* effective, the corporation either shall amend its articles under the provisions of this [article to reflect such] *subpart to reflect the* change in location or shall file in the Department of State a statement *of change of registered office* executed [under the seal of the corporation and signed by two duly authorized officers of] by the corporation, setting forth:

- (1) The name of the corporation.

(2) The address, including street number, if any, of its then registered office.

(3) The address, including street number, if any, to which the registered office is to be changed.

(4) A statement that [such] *the* change was authorized by [resolution duly adopted by at least a majority of the members in office of] the board of directors or other body.

(c) *Alternative procedure.*—*A corporation may satisfy the requirements of this subpart concerning the maintenance of a registered office in this Commonwealth by setting forth in any document filed in the department under any provision of this subpart that permits or requires the statement of the address of its then registered office, in lieu of that address, the statement authorized by section 109(a) (relating to name of commercial registered office provider in lieu of registered address).*

[(c)] (d) Cross reference.—See section 134 (relating to docketing statement).

§ 5701. Applicability of subchapter.

The provisions of this subchapter shall apply to every nonprofit corporation unless otherwise restricted:

(1) by any other provision of this [article] *subpart*; or

(2) except with respect to section [5707] *5707(a)* (relating to exception to requirement of notice), in the bylaws.

§ 5702. Manner of giving notice.

(a) *General rule.*—Whenever written notice is required to be given to any person under the provisions of this [article] *subpart* or by the articles or bylaws of any nonprofit corporation, it may be given to [such] *the* person[,], either personally or by sending a copy thereof by first class *or express* mail, postage prepaid, or by telegram (*with messenger service specified*), *telex or TWX (with answer back received) or courier service*, charges prepaid, or by *facsimile transmission*, to his address (*or to his telex, TWX or facsimile number*) appearing on the books of the corporation[,], or, in the case of directors or members of an other body, supplied by him to the corporation for the purpose of notice. If the notice is sent by mail [or by], telegraph *or courier service*, it shall be deemed to have been given to the person entitled thereto when deposited in the United States mail or with a telegraph office [for transmission to such person] *or courier service for delivery to that person or, in the case of telex or TWX, when dispatched.* A notice of meeting shall specify the place, day and hour of the meeting and any other information required by any other provision of this [article] *subpart*.

(b) *Adjourned meetings of members.*—When a meeting *of members* is adjourned, it shall not be necessary to give any notice of the adjourned meeting or of the business to be transacted at an adjourned meeting, other than by announcement at the meeting at which [such] *the* adjournment is taken[.], *unless the board or other body fixes a new record date for the adjourned meeting or this subpart requires notice of the business to be transacted and such notice has not previously been given.*

(c) *Bulk mail notice.*—*A corporation having more than 100 members of record that gives notice by mail of any regular or special meeting of the members (or any other notice required by this subpart or by the articles or bylaws to be given to all members or to a class of members) at least 20 days prior to the day named for the meeting or any corporate or member action specified in the notice may use any class of postpaid mail.*

(d) *Notice by publication.*—*If the bylaws so provide, persons authorized or required to give notice of a meeting of members may, in lieu of any written notice of a meeting of members required to be given by this subpart, give notice of the meeting by causing notice of the meeting to be officially published. If 80% of the members of record entitled to vote at the meeting do not have addresses of record within the territory of general circulation of the newspapers required for official publication, the notice shall also be published in newspapers that have an aggregate territory of general circulation that includes the addresses of record of at least 80% of the members of record.*

(e) *Notice by public announcement.*—*In lieu of any written notice of a meeting of members required to be given by this subpart, persons authorized or required to give notice of a meeting of members of any church or other religious organization may give notice of the meeting by announcement at any two regular church or religious services held during different weeks within 30 days prior to the time at which the meeting of members will be held. In any case where notice of a meeting is given by announcement, notice shall be given at the last service preceding the meeting. In the event that two church or religious services are not held within such 30-day period, notice of a meeting of members shall be given as otherwise provided in this subchapter.*

(f) *Effect of notice pursuant to optional procedures.*—*For the purposes of this subpart, notice given under subsection (d) or (e) shall be deemed to be written notice to every member of record entitled to vote at a meeting or to every person otherwise entitled to notice.*

§ 5703. Place and notice of meetings of board of directors or other body.

(a) *Place.*—*Meetings of the board of directors or other body may be held at such place within or without this Commonwealth as the board of directors or other body may from time to time appoint[,] or as may be designated in the notice of the meeting.*

(b) *Notice.*—*[Meetings] Regular meetings of the board of directors or other body may be held upon such notice, if any, as the bylaws may prescribe. Unless otherwise provided in the bylaws, written notice of every special meeting of the board of directors or other body shall be given to each director or member of such other body at least five days before the day named for the meeting. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board or other body need be specified in the notice of the meeting.*

§ 5704. Place and notice of meetings of members.

(a) *Place.*—*[Meeting] Meetings of members may be held at such place within or without this Commonwealth as may be provided in or fixed pursu-*

*ant to the bylaws [or as may be fixed by the board of directors or other body pursuant to authority granted by the bylaws]. Unless otherwise provided in or pursuant to the bylaws, all meetings of the members shall be held in this Commonwealth at the registered office of the corporation.*

(b) Notice.—Written notice of every meeting of the members shall be given by, or at the direction of, the secretary or other authorized person[,] to each member of record entitled to vote at the meeting[,] at least:

*(1) ten days prior to the day named for a meeting called to consider a fundamental change under Chapter 59 (relating to fundamental changes);*  
or

*(2) five days prior to the day named for the meeting in any other case.*

If the secretary or [such] other authorized person [shall neglect or refuse] *neglects or refuses* to give notice of a meeting, the person or persons calling the meeting may do so.

(c) Contents.—In the case of a special meeting of the members, the notice shall specify the general nature of the business to be transacted, *and in all cases the notice shall comply with the express requirements of this subpart. The corporation shall not have a duty to augment the notice.*

§ 5705. Waiver of notice.

(a) Written waiver.—Whenever any written notice is required to be given under the provisions of this [article] subpart or the articles or bylaws of any nonprofit corporation, a waiver thereof in writing, signed by the person or persons entitled to [such] the notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of [such] the notice. Except as otherwise required by this subsection, neither the business to be transacted at, nor the purpose of, a meeting need be specified in the waiver of notice of [such] the meeting. *[In the case of a special meeting of members such waiver of notice shall specify the general nature of the business to be transacted.]*

(b) Waiver by attendance.—Attendance of a person at any meeting shall constitute a waiver of notice of [such] the meeting[,] except where a person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting was not lawfully called or convened.

§ 5706. Modification of proposal contained in notice.

Whenever the language of a proposed resolution is included in a written notice of a meeting *required to be given under the provisions of this subpart or the articles or bylaws of any nonprofit corporation*, the meeting considering the resolution may without further notice adopt it with such clarifying or other amendments as do not enlarge its original purpose.

§ 5707. Exception to requirement of notice.

*[Wherever] (a) General rule.—Whenever* any notice or communication is required to be given to any person under the provisions of this [article] subpart or by the articles or bylaws of any nonprofit corporation[,] or by the terms of any agreement or other instrument or as a condition precedent to taking any corporate action[,] and communication with [such] that person is then unlawful, the giving of [such] the notice or communication to such person shall not be required and there shall be no duty to apply for a license



or other permission to do so. Any action or meeting **[which shall be]** *that is* taken or held without notice or communication to **[any such]** *that* person shall have the same validity as if **[such]** *the* notice or communication had been duly given. If the action taken is such as to require the filing of any document with respect thereto under any provision of law or any agreement or other instrument, it shall be sufficient, if such is the fact and if notice or communication is required, to state therein that notice or communication was given to all persons entitled to receive notice or communication except **[such]** persons with whom communication was unlawful.

*(b) Members without forwarding addresses.—Subsection (a) shall also be applicable to any member with whom the corporation has been unable to communicate for more than 24 consecutive months because communications to the member are returned unclaimed or the member has otherwise failed to provide the corporation with a current address. Whenever the member provides the corporation with a current address, subsection (a) shall cease to be applicable to the member under this subsection.*

§ 5708. Use of conference telephone and similar equipment.

**[One]** *Except as otherwise provided in the bylaws, one or more persons may participate in a meeting of the incorporators, the board[,] of directors or [of] an other body, or [of] the members of a nonprofit corporation by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this section shall constitute presence in person at [such] the meeting.*

## SUBCHAPTER B FIDUCIARY DUTY

Sec.

5711. Alternative provisions.

5712. Standard of care and justifiable reliance.

5713. Personal liability of directors.

5714. Notation of dissent.

5715. Exercise of powers generally.

5716. Alternative standard.

5717. Limitation on standing.

§ 5711. Alternative provisions.

Section 5716 (relating to alternative standard) shall not be applicable to any nonprofit corporation to which section 5715 (relating to exercise of powers generally) is applicable. Section 5715 shall be applicable to any corporation except a corporation:

(1) the bylaws of which by amendment adopted by the board of directors on or before July 26, 1990, and not subsequently rescinded by an articles amendment, explicitly provide that section 5715 or corresponding provisions of prior law shall not be applicable to the corporation; or

(2) the articles of which explicitly provide that section 5715 or corresponding provisions of prior law shall not be applicable to the corporation.

**§ 5712. Standard of care and justifiable reliance.**

(a) **Directors.**—A director of a nonprofit corporation shall stand in a fiduciary relation to the corporation and shall perform his duties as a director, including his duties as a member of any committee of the board upon which he may serve, in good faith, in a manner he reasonably believes to be in the best interests of the corporation and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. In performing his duties, a director shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

(1) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented.

(2) Counsel, public accountants or other persons as to matters which the director reasonably believes to be within the professional or expert competence of such person.

(3) A committee of the board upon which he does not serve, duly designated in accordance with law, as to matters within its designated authority, which committee the director reasonably believes to merit confidence.

(b) **Effect of actual knowledge.**—A director shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that would cause his reliance to be unwarranted.

(c) **Officers.**—Except as otherwise provided in the bylaws, an officer shall perform his duties as an officer in good faith, in a manner he reasonably believes to be in the best interests of the corporation and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. A person who so performs his duties shall not be liable by reason of having been an officer of the corporation.

**§ 5713. Personal liability of directors.**

(a) **General rule.**—If a bylaw adopted by the members of a nonprofit corporation so provides, a director shall not be personally liable, as such, for monetary damages for any action taken unless:

(1) the director has breached or failed to perform the duties of his office under this subchapter; and

(2) the breach or failure to perform constitutes self-dealing, willful misconduct or recklessness.

(b) **Exception.**—Subsection (a) shall not apply to:

(1) the responsibility or liability of a director pursuant to any criminal statute; or

(2) the liability of a director for the payment of taxes pursuant to Federal, State or local law.

(c) **Cross reference.**—See 42 Pa.C.S. § 8332.5 (relating to corporate representatives).

§ 5714. Notation of dissent.

A director of a nonprofit corporation who is present at a meeting of its board of directors, or of a committee of the board, at which action on any corporate matter is taken on which the director is generally competent to act, shall be presumed to have assented to the action taken unless his dissent is entered in the minutes of the meeting or unless he files his written dissent to the action with the secretary of the meeting before the adjournment thereof or transmits the dissent in writing to the secretary of the corporation immediately after the adjournment of the meeting. The right to dissent shall not apply to a director who voted in favor of the action. Nothing in this subchapter shall bar a director from asserting that minutes of the meeting incorrectly omitted his dissent if, promptly upon receipt of a copy of such minutes, he notifies the secretary in writing of the asserted omission or inaccuracy.

§ 5715. Exercise of powers generally.

(a) General rule.—In discharging the duties of their respective positions, the board of directors, committees of the board and individual directors of a nonprofit corporation may, in considering the best interests of the corporation, consider to the extent they deem appropriate:

(1) The effects of any action upon any or all groups affected by such action, including members, employees, suppliers, customers and creditors of the corporation, and upon communities in which offices or other establishments of the corporation are located.

(2) The short-term and long-term interests of the corporation, including benefits that may accrue to the corporation from its long-term plans and the possibility that these interests may be best served by the continued independence of the corporation.

(3) The resources, intent and conduct (past, stated and potential) of any person seeking to acquire control of the corporation.

(4) All other pertinent factors.

(b) Consideration of interests and factors.—The board of directors, committees of the board and individual directors shall not be required, in considering the best interests of the corporation or the effects of any action, to regard any corporate interest or the interests of any particular group affected by such action as a dominant or controlling interest or factor. The consideration of interests and factors in the manner described in this subsection and in subsection (a) shall not constitute a violation of section 5712 (relating to standard of care and justifiable reliance).

(c) Specific applications.—In exercising the powers vested in the corporation, including, without limitation, those powers pursuant to section 5502 (relating to general powers), and in no way limiting the discretion of the board of directors, committees of the board and individual directors pursuant to subsections (a) and (b), the fiduciary duty of directors shall not be deemed to require them to act as the board of directors, a committee of the board or an individual director solely because of the effect such action might have on an acquisition or potential or proposed acquisition of control of the corporation or the consideration that might be offered or paid to members in such an acquisition.

(d) **Presumption.**—Absent breach of fiduciary duty, lack of good faith or self-dealing, any act as the board of directors, a committee of the board or an individual director shall be presumed to be in the best interests of the corporation. In assessing whether the standard set forth in section 5712 has been satisfied, there shall not be any greater obligation to justify, or higher burden of proof with respect to, any act as the board of directors, any committee of the board or any individual director relating to or affecting an acquisition or potential or proposed acquisition of control of the corporation than is applied to any other act as a board of directors, any committee of the board or any individual director. Notwithstanding the preceding provisions of this subsection, any act as the board of directors, a committee of the board or an individual director relating to or affecting an acquisition or potential or proposed acquisition of control to which a majority of the disinterested directors shall have assented shall be presumed to satisfy the standard set forth in section 5712, unless it is proven by clear and convincing evidence that the disinterested directors did not assent to such act in good faith after reasonable investigation.

(e) **Definition.**—The term “disinterested director” as used in subsection (d) and for no other purpose means:

(1) A director of the corporation other than:

(i) A director who has a direct or indirect financial or other interest in the person acquiring or seeking to acquire control of the corporation or who is an affiliate or associate, as defined in section 2552 (relating to definitions), of, or was nominated or designated as a director by, a person acquiring or seeking to acquire control of the corporation.

(ii) Depending on the specific facts surrounding the director and the act under consideration, an officer or employee or former officer or employee of the corporation.

(2) A person shall not be deemed to be other than a disinterested director solely by reason of any or all of the following:

(i) The ownership by the director of a membership in or shares of the corporation.

(ii) The receipt as a member of or holder of shares of any class of any distribution made to all members of or holders of shares of that class.

(iii) The receipt by the director of director’s fees or other consideration as a director.

(iv) Any interest the director may have in retaining the status or position of director.

(v) The former business or employment relationship of the director with the corporation.

(vi) Receiving or having the right to receive retirement or deferred compensation from the corporation due to service as a director, officer or employee.

(f) **Cross reference.**—See section 5711 (relating to alternative provisions).

§ 5716. Alternative standard.

(a) General rule.—In discharging the duties of their respective positions, the board of directors, committees of the board and individual directors of a nonprofit corporation may, in considering the best interests of the corporation, consider the effects of any action upon employees, upon suppliers and customers of the corporation and upon communities in which offices or other establishments of the corporation are located, and all other pertinent factors. The consideration of those factors shall not constitute a violation of section 5712 (relating to standard of care and justifiable reliance).

(b) Presumption.—Absent breach of fiduciary duty, lack of good faith or self-dealing, actions taken as a director shall be presumed to be in the best interests of the corporation.

(c) Cross reference.—See section 5711 (relating to alternative provisions).

§ 5717. Limitation on standing.

The duty of the board of directors, committees of the board and individual directors under section 5712 (relating to standard of care and justifiable reliance) is solely to the nonprofit corporation and may be enforced directly by the corporation or may be enforced by a member, as such, by an action in the right of the corporation, and may not be enforced directly by a member or by any other person or group. Notwithstanding the preceding sentence, sections 5715(a) and (b) (relating to exercise of powers generally) and 5716(a) (relating to alternative standard) do not impose upon the board of directors, committees of the board and individual directors, any legal or equitable duties, obligations or liabilities or create any right or cause of action against, or basis for standing to sue, the board of directors, committees of the board and individual directors.

SUBCHAPTER [B] C  
DIRECTORS, OFFICERS AND MEMBERS OF  
AN OTHER BODY

§ 5721. *Board of directors.*

*Unless otherwise provided by statute or in a bylaw adopted by the members, all powers enumerated in section 5502 (relating to general powers) and elsewhere in this subpart or otherwise vested by law in a nonprofit corporation shall be exercised by or under the authority of, and the business and affairs of every nonprofit corporation shall be managed under the direction of, a board of directors. If any such provision is made in the bylaws, the powers and duties conferred or imposed upon the board of directors by this subpart shall be exercised or performed to such extent and by such other body as shall be provided in the bylaws.*

§ 5732. Officers.

(a) General rule.—Every nonprofit corporation shall have a president, a secretary, and a treasurer, or persons who shall act as such, regardless of the name or title by which they may be designated, elected or appointed and may have such other officers and assistant officers as it [shall] may authorize from time to time. The bylaws may prescribe special qualifications for [such]

*the officers. The president and secretary shall be natural persons of full age. The treasurer may be a corporation, but if a natural person shall be of full age. [Such officers and assistant officers shall be elected or appointed at such time, in such manner, and for such terms, as the bylaws shall prescribe.] Unless otherwise restricted in the bylaws, it shall not be necessary for the officers to be directors [and any]. Any number of offices may be held by the same person. [Unless otherwise provided in the bylaws, the board of directors shall elect and fix the compensation of the officers and assistant officers.] The officers and assistant officers shall be elected or appointed at such time, in such manner and for such terms as may be fixed by or pursuant to the bylaws. Unless otherwise provided by or pursuant to the bylaws, each officer shall hold office for a term of one year and until his successor has been selected and qualified or until his earlier death, resignation or removal. Any officer may resign at any time upon written notice to the corporation. The resignation shall be effective upon receipt thereof by the corporation or at such subsequent time as may be specified in the notice of resignation. The [board of directors or other body] corporation may secure the fidelity of any or all of [such] the officers by bond or otherwise. Unless otherwise provided in the bylaws, the board of directors shall have power to fill any vacancies in any office occurring from whatever reason.*

(b) Authority.—Unless otherwise provided in the bylaws, all officers of the corporation, as between themselves and the corporation, shall [respectively] have such authority and perform such duties in the management of the [property and affairs of the] corporation as may be provided [in] *by or pursuant to* the bylaws[,] or, in the absence of controlling provisions in the bylaws, as may be determined by *or pursuant to* resolutions or orders of the board of directors or other body.

(c) Nomination of officers.—Unless the bylaws provide otherwise, officers shall be nominated by a nominating committee or from the floor.

(d) *Cross reference.*—*See section 5110 (relating to annual report).*

§ 5734. Other body.

*The [limitations, safeguards and procedures] provisions of this subchapter, of Subchapters B (relating to fiduciary duty) and D (relating to indemnification) and of other provisions of law applicable to the board of directors and to directors individually shall be applicable also to any “other body” as defined in section 5103 (relating to definitions) and to the members of an other body individually.*

#### SUBCHAPTER [C] D INDEMNIFICATION

§ 5741. Third-party actions.

Unless otherwise restricted in its bylaws, a nonprofit corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action[, suit] or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation), by reason of the fact that he is or was a representative of the corporation, or is or was serving at

the request of the corporation as a representative of another *domestic or foreign* corporation *for profit or not-for-profit*, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with **[such] the action[, suit] or proceeding** if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the corporation[,], and, with respect to any criminal **[action or] proceeding**, had no reasonable cause to believe his conduct was unlawful. The termination of any action[, suit] or proceeding by judgment, order, settlement[,], or conviction[,], or upon a plea of nolo contendere or its equivalent[,], shall not of itself create a presumption that the person did not act in good faith and in a manner **[which] that** he reasonably believed to be in, or not opposed to, the best interests of the corporation[,], and, with respect to any criminal **[action or] proceeding**, had reasonable cause to believe that his conduct was unlawful.

§ 5742. Derivative actions.

Unless otherwise restricted in its bylaws, a nonprofit corporation shall have power to indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action **[or suit]** by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he is or was a representative of the corporation[,], or is or was serving at the request of the corporation as a representative of another *domestic or foreign* corporation *for profit or not-for-profit*, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of **[such] the action [or suit]** if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the corporation **[and except that no indemnification]**. *Indemnification* shall *not* be made *under this section* in respect of any claim, issue or matter as to which **[such] the person [shall have] has** been adjudged to be liable **[for negligence or misconduct in the performance of his duty]** to the corporation unless and only to the extent that the court of common pleas of the *judicial district embracing the county* in which the registered office of the corporation is located or the court in which **[such] the action [or suit]** was brought **[shall determine] determines** upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses **[which] that** the court of common pleas or **[such] other court** shall deem proper.

§ 5743. Mandatory indemnification.

**[Notwithstanding any contrary provision of its articles or bylaws, to] To** the extent that a representative of a nonprofit corporation has been successful on the merits or otherwise in defense of any action[, suit] or proceeding referred to in section 5741 (relating to third-party actions) or **[section] 5742** (relating to derivative actions) or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

§ 5744. Procedure for effecting indemnification.

Unless ordered by a court, any indemnification under section 5741 (relating to third-party actions) or [section] 5742 (relating to derivative actions) shall be made by the *nonprofit* corporation only as authorized in the specific case upon a determination that indemnification of the representative is proper in the circumstances because he has met the applicable standard of conduct set forth in [such section. Such] *those sections*. *The* determination shall be made:

(1) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to [such action, suit] *the action* or proceeding;

(2) if such a quorum is not obtainable[, or[, even] if obtainable *and* a majority vote of a quorum of disinterested directors so directs, by independent legal counsel in a written opinion;

(3) by such other body as may be provided in the bylaws; or

(4) by the members.

§ 5745. [(Reserved).] *Advancing expenses*.

*Expenses (including attorneys' fees) incurred in defending any action or proceeding referred to in this subchapter may be paid by a nonprofit corporation in advance of the final disposition of the action or proceeding upon receipt of an undertaking by or on behalf of the representative to repay the amount if it is ultimately determined that he is not entitled to be indemnified by the corporation as authorized in this subchapter or otherwise.*

§ 5746. [Scope of subchapter] *Supplementary coverage*.

(a) *General rule.*—The indemnification *and advancement of expenses* provided by *or granted pursuant to the other sections* of this subchapter shall not be deemed exclusive of any other rights to which a person seeking indemnification *or advancement of expenses* may be entitled under any bylaw, agreement, vote of members or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding [such] *that office*[, and shall continue as to a person who has ceased to be a representative and shall inure to the benefit of the heirs and personal representative of such a person]. *Section 5728 (relating to interested members, directors or officers; quorum) shall be applicable to any bylaw, contract or transaction authorized by the directors under this section. A corporation may create a fund of any nature, which may, but need not, be under the control of a trustee, or otherwise secure or insure in any manner its indemnification obligations, whether arising under or pursuant to this section or otherwise.*

(b) *When indemnification is not to be made.*—*Indemnification pursuant to subsection (a) shall not be made in any case where the act or failure to act giving rise to the claim for indemnification is determined by a court to have constituted willful misconduct or recklessness.*

(c) *Grounds.*—*Indemnification pursuant to subsection (a) under any bylaw, agreement, vote of members or directors or otherwise may be granted for any action taken or any failure to take any action and may be made whether or not the corporation would have the power to indemnify the*



*person under any other provision of law except as provided in this section and whether or not the indemnified liability arises or arose from any threatened, pending or completed action by or in the right of the corporation. Such indemnification is declared to be consistent with the public policy of this Commonwealth.*

**(b)(d)** Trust property.—This subchapter shall not affect the liability of a representative with respect to the administration of assets held by the corporation pursuant to section 5547 (relating to authority to take and hold trust property).

§ 5747. Power to purchase insurance.

Unless otherwise restricted in its bylaws, a nonprofit corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a representative of the corporation[, ] or is or was serving at the request of the corporation as a representative of another *domestic or foreign* corporation *for profit or not-for-profit*, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the corporation would have the power to indemnify him against [such] *that* liability under the provisions of this subchapter. Such insurance is declared to be consistent with the public policy of this Commonwealth.

§ 5748. Application to surviving or new corporations.

For the purposes of this subchapter, references to “the corporation” include all constituent corporations absorbed in a consolidation, merger or division, as well as the surviving or new corporations surviving or resulting therefrom, so that any person who is or was a representative of [such a] *the* constituent, surviving or new corporation, or is or was serving at the request of [such] *the* constituent, surviving or new corporation as a representative of another *domestic or foreign* corporation *for profit or not-for-profit*, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this subchapter with respect to the surviving or new corporation as he would if he had served the surviving or new corporation in the same capacity.

§ 5749. Application to employee benefit plans.

*For the purposes of this subchapter:*

(1) *References to “other enterprises” shall include employee benefit plans and references to “serving at the request of the corporation” shall include any service as a representative of the nonprofit corporation that imposes duties on or involves services by the representative with respect to an employee benefit plan, its participants or beneficiaries.*

(2) *Excise taxes assessed on a person with respect to any employee benefit plan pursuant to applicable law shall be deemed “fines.”*

(3) *Action with respect to an employee benefit plan taken or omitted in good faith by a representative of the corporation in a manner he reasonably believed to be in the interest of the participants and beneficiaries of the plan shall be deemed to be action in a manner that is not opposed to the best interests of the corporation.*

§ 5750. *Duration and extent of coverage.*

*The indemnification and advancement of expenses provided by or granted pursuant to this subchapter shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a representative of the corporation and shall inure to the benefit of the heirs and personal representative of that person.*

SUBCHAPTER [D] E  
MEMBERS

§ 5758. Voting rights of members.

\* \* \*

(b) Procedures.—*The manner of voting on any matter, including changes in the articles or bylaws, may be by ballot, mail or any reasonable means provided in a bylaw adopted by the members.* If a bylaw adopted by the members provides a fair and reasonable procedure for the nomination of candidates for any office, only candidates who have been duly nominated in accordance therewith shall be eligible for election. **[The manner of voting may be by ballot, mail, or any reasonable means provided in a bylaw adopted by the members.]** Unless otherwise provided in such a bylaw, in elections for directors, voting shall be by ballot, and the candidates receiving the highest number of votes from each class or group [or] of classes, if any, of *members* entitled to elect directors separately up to the number of directors to be elected by such class or group of classes shall be elected. *If at any meeting of members directors of more than one class are to be elected, each class of directors shall be elected in a separate election.*

\* \* \*

SUBCHAPTER [E] F  
DERIVATIVE ACTIONS  
(Reserved)

SUBCHAPTER [F] G  
JUDICIAL SUPERVISION OF CORPORATE ACTION

CHAPTER 59  
FUNDAMENTAL CHANGES

SUBCHAPTER A  
PRELIMINARY PROVISIONS  
[(Reserved)]

Sec.

- 5901. Omission of certain provisions from filed plans.
- 5902. Statement of termination.
- 5903. Bankruptcy or insolvency proceedings.
- 5904. (Reserved).
- 5905. Proposal of fundamental transactions.

§ 5901. Omission of certain provisions from filed plans.

(a) General rule.—A plan as filed in the Department of State under any provision of this chapter may omit all provisions of the plan except provisions, if any:

(1) that are intended to amend or constitute the operative provisions of the articles of a corporation as in effect subsequent to the effective date of the plan; or

(2) that allocate or specify the respective assets and liabilities of the resulting corporations, in the case of a plan of division.

(b) Availability of full plan.—If any of the provisions of a plan are omitted from the plan as filed in the department, the articles of amendment, merger, consolidation, division or conversion shall state that the full text of the plan is on file at the principal place of business of the surviving or new or a resulting corporation and shall state the address thereof. A corporation that takes advantage of this section shall furnish a copy of the full text of the plan, on request and without cost, to any member of any corporation that was a party to the plan and on request and at cost to any other person.

§ 5902. Statement of termination.

(a) General rule.—If articles of amendment or articles of merger, consolidation, division or conversion of a nonprofit corporation or to which it is a party have been filed in the Department of State prior to the termination of the amendment or plan pursuant to provisions therefor set forth in the resolution or petition relating to the amendment or in the plan, the termination shall not be effective unless the corporation shall, prior to the time the amendment or plan is to become effective, file in the department a statement of termination. The statement of termination shall be executed by the corporation that filed the amendment or by each corporation that is a party to the plan, unless the plan permits termination by less than all of the corporations, in which case the statement shall be executed on behalf of the corporation or corporations exercising the right to terminate, and shall set forth:

(1) A copy of the articles of amendment or articles of merger, consolidation, division or conversion relating to the amendment or plan that is terminated.

(2) A statement that the amendment or plan has been terminated in accordance with the provisions therefor set forth therein.

(b) Cross references.—See sections 134 (relating to docketing statement) and 138 (relating to statement of correction).

§ 5903. Bankruptcy or insolvency proceedings.

(a) General rule.—Whenever a nonprofit corporation is insolvent or in financial difficulty, the board of directors may, by resolution and without the consent of the members, authorize and designate the officers of the corporation to execute a deed of assignment for the benefit of creditors, or file a voluntary petition in bankruptcy, or file an answer consenting to the appointment of a receiver upon a complaint in the nature of an equity action filed by creditors or members, or, if insolvent, file an answer to an involuntary petition in bankruptcy admitting the insolvency of the corporation and its willingness to be adjudged a debtor on that ground.

(b) **Bankruptcy proceedings.**—A nonprofit corporation may participate in proceedings under and in the manner provided by Title 11 of the United States Code (relating to bankruptcy) notwithstanding any contrary provision of its articles or bylaws or this subpart, other than section 103 (relating to subordination of title to regulatory laws). The corporation shall have full power and authority to put into effect and carry out a plan of reorganization or arrangement and the decrees and orders of the court, or judge or referee relative thereto, and may take any proceeding and do any act provided in the plan or arrangement or directed by such decrees and orders, without further action by its directors or members. Such power and authority may be exercised, and such proceedings and acts may be taken, as may be directed by such decrees or orders, by the trustees or receivers of the corporation appointed in the bankruptcy proceedings, or a majority thereof, or, if none be appointed and acting, by designated officers of the corporation, or by a master or other representative appointed by the court or judge or referee, with the effect as if exercised and taken by unanimous action of the directors and members of the corporation. Without limiting the generality or effect of the foregoing, the corporation may:

(1) alter, amend or repeal its bylaws;

(2) constitute or reconstitute and classify or reclassify its board of directors and name, constitute or appoint directors and officers in place of or in addition to all or some of the directors or officers then in office;

(3) amend its articles of incorporation, including without limitation for the purpose of altering, amending or repealing any provision of the articles or bylaws notwithstanding any provision therein that the articles or bylaws may be altered, amended or repealed only under certain conditions or only upon receiving the approval of a specified number or percentage of votes of members or of a class of members;

(4) be dissolved, transfer all or part of its assets, merge, consolidate, divide or convert to a business corporation, as permitted by this chapter;

(5) authorize and fix the terms, manner and conditions of the issuance of obligations; or

(6) lease its property and franchises to any person.

(c) **Cross reference.**—See the definition of “officer” in section 5103 (relating to definitions).

§ 5904. (Reserved).

§ 5905. Proposal of fundamental transactions.

Where any provision of this chapter requires that an amendment of the articles, a plan or the dissolution of a nonprofit corporation be proposed or approved by action of the board of directors, that requirement shall be construed to authorize and be satisfied by the written agreement or consent of all of the members of the corporation entitled to vote thereon.

§ 5915. Articles of amendment.

Upon the adoption of an amendment by **[the] a nonprofit** corporation, as provided in this subchapter, articles of amendment shall be executed **[under the seal of] by** the corporation **[by two duly authorized officers thereof,] and shall set forth:**

(1) The name of the corporation and, *subject to section 109 (relating to name of commercial registered office provider in lieu of registered address)*, the address, including street and number, if any, of its registered office.

(2) The statute under which the corporation was incorporated and the date of incorporation.

(3) If the amendment is to be effective on a specified date, the hour, if any, and the month, day and year of **[such]** *the* effective date.

(4) The manner in which the amendment was adopted by the corporation.

(5) The amendment adopted by the corporation, which shall be set forth in full.

(6) *If the amendment effects a restatement of the articles, a statement that the restated articles supersede the original articles and all amendments thereto.*

§ 5916. Filing and effectiveness of articles of amendment.

(a) Filing.—The articles of amendment *of a nonprofit corporation* shall be filed in the Department of State. See section 134 (relating to docketing statement).

(b) Effectiveness.—Upon the filing of the articles of amendment in the department[,], or upon the effective date specified in the articles of amendment, whichever is later, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly. **[No]** *An* amendment shall *not* affect any existing cause of action in favor of or against the corporation, or any pending action *or proceeding* to which the corporation **[shall be]** *is* a party, or the existing rights of persons other than members or, except as otherwise provided by order, if any, obtained pursuant to section 5547(b) (relating to nondiversion of certain property) divert any property subject to such section from the purpose or purposes to which it was committed. **[In the event]** *If* the corporate name **[shall be]** *is* changed by the amendment, **[no]** *an* action brought by or against the corporation under its former name shall *not* be abated for that reason.

**[(c) Advertisement.—The corporation shall officially publish notice of its intention to file or the filing of articles of amendment. The notice may appear prior to or after the day upon which the articles of amendment are filed in the department, and shall set forth briefly:**

(1) The name of the corporation, and the address, including street and number, if any, of its registered office.

(2) A statement that the articles of amendment are to be or were filed under the provisions of this subpart.

(3) The nature and character of the amendment.

(4) The date when the articles of amendment will be or were filed in the Department of State.]

§ 5926. Articles of merger or consolidation.

Upon the adoption of the plan of merger or consolidation by the corporations desiring to merge or consolidate, as provided in this subchapter, articles of merger or articles of consolidation, as the case may be, shall be executed

**[under the seal of] by each corporation [by two duly authorized officers of each corporation,] and shall, *subject to section 109 (relating to name of commercial registered office provider in lieu of registered address)*, set forth:**

(1) The name and the location of the registered office, including street and number, if any, of the domestic surviving or new corporation[,], or, in the case of a foreign surviving or new corporation, the name of **[such] the corporation** and its **[domiciliary] jurisdiction of incorporation**, together with either:

(i) if a qualified foreign *nonprofit* corporation, the address, including street and number, if any, of its registered office in this Commonwealth; or

(ii) if a nonqualified foreign *nonprofit* corporation, the address, including street and number, if any, of its principal office under the laws of **[such domiciliary] the jurisdiction in which it is incorporated**.

(2) The name and **[the] address**, including street and number, if any, of the registered office of each other domestic nonprofit corporation and qualified foreign *nonprofit* corporation **[which] that is a party to the plan**.

(3) If the plan is to be effective on a specified date, the hour, if any, and the month, day and year of **[such] the effective date**.

(4) The manner in which the plan was adopted by each domestic corporation[,], and, if one or more foreign corporations are parties to the plan, the fact that the plan was authorized, adopted or approved, as the case may be, by each of the foreign corporations in accordance with the laws of the jurisdiction in which it is incorporated.

(5) **[The] Except as provided in section 5901 (relating to omission of certain provisions from filed plans), the plan of merger or consolidation**.

§ 5954. Articles of division.

Upon the adoption of a plan of division by the corporation desiring to divide, as provided in this subchapter, articles of division shall be executed **[under the seal of] by the corporation [by two duly authorized officers thereof,] and shall, *subject to section 109 (relating to name of commercial registered office provider in lieu of registered address)*, set forth:**

(1) The name and the location of the registered office, including street and number, if any, of the dividing domestic *nonprofit* corporation[,], or, in the case of a dividing foreign *nonprofit* corporation, the name of **[such] the corporation** and **[its domiciliary] the jurisdiction in which it is incorporated**, together with either:

(i) **[if] If** a qualified foreign *nonprofit* corporation, the address, including street and number, if any, of its registered office in this Commonwealth; **[or]**.

(ii) **[if] If** a nonqualified foreign *nonprofit* corporation, the address, including street and number, if any, of its principal office under the laws of **[such domiciliary] that jurisdiction**.

(2) The statute under which the dividing corporation was incorporated and the date of incorporation.

(3) A statement that the dividing corporation will, or will not, survive the division.

(4) The name and the address, including street and number, if any, of the registered office of each new domestic nonprofit corporation or qualified foreign *nonprofit* corporation resulting from the division.

(5) If the plan is to be effective on a specified date, the hour, if any, and the month, day and year of **[such]** *the* effective date.

(6) The manner in which the plan was adopted by the corporation.

(7) **[The]** *Except as provided in section 5901 (relating to omission of certain provisions from filed plans), the* plan of division.

§ 5963. Articles of conversion.

Upon the adoption of a plan of conversion by the *nonprofit* corporation desiring to convert, as provided in this subchapter, articles of conversion shall be executed **[under the seal of]** *by* the corporation **[by two duly authorized officers thereof,]** and shall set forth:

(1) The name of the corporation and, *subject to section 109 (relating to name of commercial registered office provider in lieu of registered address)*, the address, including street and number, if any, of its registered office.

(2) The statute under which the corporation was incorporated and the date of incorporation.

(3) If the plan is to be effective on a specified date, the hour, if any, and the month, day and year of **[such]** *the* effective date.

(4) The manner in which the plan was adopted by the corporation.

(5) **[The]** *Except as provided in section 5901 (relating to omission of certain provisions from filed plans), the* plan of conversion.

§ 5971. Voluntary dissolution by members or incorporators.

(a) General rule.—The members or incorporators of a nonprofit corporation **[which]** *that* has not commenced business may effect the dissolution of the corporation by filing articles of dissolution in the Department of State. The articles of dissolution shall be executed **[under the seal]** *in the name of* the corporation by a majority of the members or incorporators, and shall set forth:

(1) The name of the corporation and, *subject to section 109 (relating to name of commercial registered office provider in lieu of registered address)*, the address, including street and number, if any, of its registered office.

(2) The statute under which the corporation was incorporated and the date of incorporation.

(3) That the corporation has not received any property in trust, or otherwise commenced business.

(4) That the amount, if any, actually paid in on subscriptions for memberships, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto.

(5) That **[no debts of the corporation remain unpaid]** *all liabilities of the corporation have been discharged* or that adequate provision has been made **[therefore]** *therefor*.

(6) That **[all]** *a majority of* the members or incorporators elect that the corporation be dissolved.

(b) Filing.—The articles of dissolution shall be filed in the Department of State. See section 134 (relating to docketing statement).

(c) Effect.—Upon the filing of the articles of dissolution, the existence of the corporation shall cease.

§ 5972. Proposal of voluntary dissolution.

(a) *General rule.*—Any nonprofit corporation **[which] that** has commenced business may elect to dissolve voluntarily, and wind up its affairs in the manner provided in this subchapter. Voluntary dissolution shall be proposed by:

(1) the adoption by the board of directors or other body of a resolution recommending that the corporation be dissolved voluntarily;

(2) petition of members entitled to cast at least 10% of the votes **[which] that** all members are entitled to cast thereon, setting forth a resolution recommending that the corporation be dissolved voluntarily, which petition shall be directed to the board of directors and filed with the secretary of the corporation; or

(3) such other method as may be provided in the bylaws.

(b) *Submission to members.*—The board of directors or other body or the petitioning members shall direct that the question of dissolution be submitted to a vote of the members of **[such] the** corporation entitled to vote thereon at a regular or special meeting of the members.

§ 5973. Notice of meeting of members.

(a) *General rule.*—Written notice **[shall, not less than ten days before]** of the meeting of members called for the purpose of considering the advisability of voluntarily dissolving the corporation[,], *shall* be given to each member of record entitled to vote thereon[, and such] *and the* purpose shall be included in the notice of the meeting.

(b) *Cross reference.*—*See Subchapter A of Chapter 57 (relating to notice and meetings generally).*

§ 5974. Adoption of proposal.

(a) *General rule.*—The resolution shall be adopted upon receiving the affirmative vote of **[the members present entitled to cast at least a majority of the votes which all members present are entitled to cast thereon, and if any class of members is entitled to vote thereon as a class, the affirmative vote of the members present of such class entitled to cast at least a majority of the votes which all members present of such class are entitled to cast thereon]** *a majority of the votes cast by all members of the nonprofit corporation entitled to vote thereon and, if any class of members is entitled to vote thereon as a class, the affirmative vote of a majority of the votes cast in each class vote.*

(b) Adoption in absence of voting members.—If the corporation has no members entitled to vote on the question of the advisability of voluntarily dissolving the corporation, the resolution shall be deemed adopted by the corporation when it has been adopted by the board of directors or other body pursuant to section 5972 (relating to proposal of voluntary dissolution).

(c) Termination of proposal.—**[The resolution or petition may contain a provision that at any time prior to the filing of articles of election to dissolve**



in the Department of State the proposal may be terminated by the board of directors or other body notwithstanding the adoption of the resolution by the corporation.] *Prior to the time when articles of dissolution are filed in the Department of State, the proposal may be terminated pursuant to provisions therefor, if any, set forth in the resolution.*

*(d) Action rescinding election to dissolve.—Prior to the time when articles of dissolution are filed in the department, any nonprofit corporation may rescind its election to dissolve in the same manner and by the same procedure as that provided in this subchapter for the election of a corporation to dissolve voluntarily.*

§ 5975. Winding up in voluntary dissolution proceedings.

(a) Powers of board.—The board of directors or other body of a nonprofit corporation shall have full power to wind up and settle the affairs of a nonprofit corporation in the event of a voluntary dissolution proceeding.

(b) Notice to creditors and taxing authorities.—After the [filling in the Department of State of articles of election to dissolve, the board of directors or other body] *approval by the members or the board of directors or other body pursuant to section 5974(b) (relating to adoption in absence of voting members) that the corporation dissolve voluntarily, the corporation* shall immediately cause notice of the winding up proceedings to be officially published and to be mailed by certified or registered mail to each known creditor and claimant and to each [local government] *municipal corporation* in which its registered office or principal place of business in this Commonwealth is located.

(c) Winding up and distribution.—The [board of directors or other body] *corporation* shall, as speedily as possible, proceed to collect all sums due [to the corporation, to] *it*, convert into cash all corporate assets the conversion of which into cash is required to discharge its liabilities[, to collect the whole or so much as may be necessary or just of any amounts remaining unpaid on subscriptions for membership,] and, out of the assets of the corporation, [to] discharge or make adequate provision for the discharge of all liabilities of the corporation, according to their respective priorities. Except as otherwise provided in a bylaw adopted by the members or in this [article] *subpart* or by any other provision of law, any surplus remaining after paying or providing for all liabilities of the corporation shall be distributed [by the board of directors or other body] to the shareholders, if any, pro rata, or if there be no shareholders, among the members per capita.

§ 5976. Judicial supervision of proceedings.

(a) General rule.—[The board of directors or other body] *A nonprofit corporation*, at any time during the winding up proceedings, may[, by petition,] apply to the court to have the proceedings continued under the supervision of the court[, and thereafter the proceedings shall continue under the supervision of the court[, as provided in Subchapter G (relating to involuntary liquidation and dissolution).

(b) Distribution of property committed to charitable purposes.—If the assets of the corporation include any property committed to charitable purposes, the board of directors or other body shall apply to the court for an

order pursuant to section 5547(b) (relating to nondiversion of certain property) specifying the disposition of the property.

(c) Religious assets.—In entering a decree providing for the distribution of the assets of a corporation organized for the support of public worship, the court shall, by its decree, provide for the disposition of the assets of the corporation, either by:

(1) vesting title thereto in such other corporation as may, by its articles, be organized for the purpose of holding title to the real estate held for public worship, according to the formularies of the church or religious organization to which the dissolved corporation was in allegiance;

(2) authorizing the sale of such assets by a master or trustee appointed for that purpose and the vesting of the proceeds, upon the confirmation of such sale, in such body as may be directed by the court, to be held in trust for carrying out the intent and purpose of public worship; or

(3) vesting the title to such assets in any incorporated or unincorporated body designated by the petitioners for the same uses and trusts as the assets were theretofore held by the dissolved corporation.

§ 5977. Articles of dissolution.

(a) Preparation of articles.—When all liabilities of the nonprofit corporation have been discharged, or adequate provision [shall have] *has* been made therefor, and all of the remaining assets of the corporation [shall] have been distributed as provided in this subchapter, or in case its assets are not sufficient to discharge its liabilities, when all the assets have been fairly and equitably applied, as far as they will go, to the payment of such liabilities, articles of dissolution shall be executed [under the seal of] *by* the corporation [by two duly authorized officers thereof,] and shall set forth:

(1) The name of the corporation and, *subject to section 109 (relating to name of commercial registered office provider in lieu of registered address)*, the address, including street and number, if any, of its registered office.

(2) [A statement that the corporation has theretofore delivered to the Department of State articles of election to dissolve, and the date on which such articles were filed in the department.] *The statute under which the corporation was incorporated and the date of incorporation.*

(3) *The names and respective addresses, including street and number, if any, of its directors and officers.*

(4) *The manner in which the proposal to dissolve voluntarily was adopted by the corporation.*

[(3)] (5) A statement:

(i) that *all* liabilities of the corporation have been discharged[,] or that adequate provision has been made therefor; or

(ii) that the assets of the corporation are not sufficient to discharge its liabilities, and that all the assets of the corporation have been fairly and equitably applied, as far as they will go, to the payment of such liabilities.

*An election by the corporation to proceed under Subchapter H (relating to postdissolution claims) shall constitute the making of adequate provision for the liabilities of the corporation.*

**[(4)] (6)** A statement:

(i) that all the remaining assets of the corporation, if any, have been distributed as provided in **[this subchapter.] *the Nonprofit Corporation Law of 1988; or***

(ii) ***that the corporation has elected to proceed under Subchapter H and that any remaining assets of the corporation will be distributed as provided in that subchapter.***

**[(5)] (7)** A statement that **[there are]** no actions *or proceedings* are pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment or decree **[which] *that*** may be obtained against the corporation in each **[such]** pending action *or proceeding*.

**[(6)] (8)** A statement that notice of the winding-up proceedings of the corporation was mailed by certified or registered mail to each **[local government] *known creditor and claimant and to each municipal corporation*** in which the registered office or principal place of business of the corporation in this Commonwealth is located.

(b) Filing.—The articles of dissolution and the certificates or statement required by section 139 (relating to tax clearance of certain fundamental transactions) shall be filed in the Department of State. **[At the same time proof of the advertisement required by section 5975(b) (relating to notice to creditors and taxing authorities) shall be delivered to the department.]** See section 134 (relating to docketing statement).

(c) Effect.—Upon the filing of the articles of dissolution in the department, the existence of the corporation shall cease.

§ 5978. Winding up of corporation upon the expiration of its period of duration.

Every nonprofit corporation **[which] *that*** is dissolved by expiration of its period of duration shall, nevertheless, continue to exist for the purpose of winding up its affairs, prosecuting and defending actions *or proceedings* by or against it, collecting and discharging obligations, disposing of and conveying its property[,], and collecting and dividing its assets, but not for the purpose of continuing business[,], except insofar as necessary for the winding up of the corporation. The board of directors or other body of **[such] *the*** corporation shall continue as such[,], and shall have full power to wind up the affairs of the corporation.

§ 5979. Survival of remedies and rights after dissolution.

**[(a) Liabilities.—The dissolution of a nonprofit corporation, either under this subchapter or under Subchapter G (relating to involuntary liquidation and dissolution) or by expiration of its period of duration, shall not take away or impair any remedy given against such corporation, its directors or members, for any liability incurred prior to such dissolution, if an action thereon is brought before or within two years after the date of such dissolution. Such actions may be prosecuted against and defended by the corporation in its corporate name.]**

(a) *General rule.—The dissolution of a nonprofit corporation, either under this subchapter or under Subchapter G (relating to involuntary liqui-*

*dation and dissolution) or by expiration of its period of duration or otherwise, shall not eliminate nor impair any remedy available to or against the corporation or its directors, members of an other body, officers or members for any right or claim existing, or liability incurred, prior to the dissolution, if an action thereon is brought on behalf of:*

*(1) the corporation within the time otherwise limited by law; or*

*(2) any other person before or within two years after the date of the dissolution or within the time otherwise limited by this subpart or other provision of law, whichever is less. See sections 5987 (relating to proofs of claims), 5993 (relating to acceptance or rejection of matured claims) and 5994 (relating to disposition of unmatured claims).*

*The actions or proceedings may be prosecuted against and defended by the corporation in its corporate name.*

(b) Rights and assets.—The dissolution of a nonprofit corporation shall not [take away or impair any property right, tangible or intangible, including any right of action, of such corporation.] *affect the limited liability of a member of the corporation theretofore existing with respect to transactions occurring or acts or omissions done or omitted in the name of or by the corporation except that, subject to section 5998 (relating to liability of members), if applicable, each member shall be liable for his pro rata portion of the unpaid liabilities of the corporation up to the amount of the net assets of the corporation distributed to the member in connection with the dissolution.* Should any [such] property right *of a corporation* be discovered after the dissolution of the corporation, the surviving member or members of the board of directors or other body [which] *that* wound up the affairs of the corporation, or a receiver appointed by the court, shall have authority to enforce [such] *the* property right and to collect and divide the assets so discovered among the persons entitled thereto and to prosecute actions *or proceedings* in the corporate name of the corporation. Any assets so collected shall be distributed and disposed of in accordance with the applicable [decree] *order* of court, if any, otherwise in accordance with this subchapter. § 5989. Articles of involuntary dissolution.

(a) General rule.—[The court, in] *In* a proceeding under this subchapter, *the court* shall enter [a decree] *an order* dissolving the *nonprofit* corporation when the order, if any, obtained pursuant to section 5547(b) (relating to non-diversion of certain property) has been entered and when the costs and expenses of [such] *the* proceeding, and all liabilities of the corporation [shall] have been discharged, and all of its remaining assets have been distributed to the persons entitled thereto, or, in case its assets are not sufficient to discharge such costs, expenses and liabilities, when all the assets have been applied, as far as they will go, to the payment of such costs, expenses and liabilities.

(b) Filing.—[After the court shall have entered a decree of dissolution, it shall be the duty of the prothonotary to] *After entry of an order of dissolution, the office of the clerk of the court of common pleas shall* prepare and execute articles of dissolution substantially in the form provided by section 5977 (relating to articles of dissolution), [to] attach thereto a certified

copy of the [decree and to] *order and* transmit the articles and attached [decree] *order* to the Department of State. [No fee shall be charged by the department] *A certificate or statement provided for by section 139 (relating to tax clearance of certain fundamental transactions) shall not be required, and the department shall not charge a fee* in connection with the filing of articles of dissolution under this section. See section 134 (relating to docketing statement).

(c) Effect.—Upon the filing of the articles of dissolution in the department, the existence of the corporation shall cease.

SUBCHAPTER H  
POSTDISSOLUTION CLAIMS  
[(Reserved)]

Sec.

- 5991. Definition of successor entity.
- 5992. Notice to claimants.
- 5993. Acceptance or rejection of matured claims.
- 5994. Disposition of unmatured claims.
- 5995. Court proceedings.
- 5996. No revival or waiver.
- 5997. Payments and distributions.
- 5998. Liability of members.

§ 5991. Definition of successor entity.

As used in this subchapter, the term “successor entity” includes any trust, receivership or other legal entity governed by the laws of this Commonwealth or any other jurisdiction to which the remaining assets of a dissolved non-profit corporation are transferred subject to its liabilities and which exists solely for the purposes of prosecuting and defending actions, by or against the corporation, enabling the corporation to settle and close its business, to dispose of and convey the property of the corporation, to discharge the liabilities of the corporation, and to distribute to the members of the corporation any remaining assets, but not for the purpose of continuing the business for which the corporation was incorporated.

§ 5992. Notice to claimants.

(a) General rule.—After a nonprofit corporation has been dissolved in accordance with the procedures set forth in this chapter, the corporation or any successor entity may give notice of the dissolution requesting all persons having a claim against the corporation to present their claims against the corporation in accordance with the notice. The notice shall state:

- (1) That all claims must be presented in writing and must contain sufficient information reasonably to inform the corporation or successor entity of the identity of the claimant and the substance of the claim.
- (2) The mailing address to which a claim must be sent.
- (3) The date by which a claim must be received by the corporation or successor entity, which date shall be not less than 60 days after the date the notice is given.

(4) That the corporation or a successor entity may make distribution to other claimants and the members of the corporation or persons interested as having been such without further notice to the claimant.

(b) Unmatured claims.—The corporation or successor entity electing to follow the procedures specified in subsection (a) shall also give notice of the dissolution of the corporation to persons with claims contingent upon the occurrence or nonoccurrence of future events or otherwise conditional or unmatured and shall request that such persons present their claims in accordance with the terms of the notice. The notice shall be in substantially the form specified in subsection (a).

(c) Publication and service of notices.—The notices required by this section shall be officially published at least once a week for two consecutive weeks. Concurrently with or preceding the publication, the corporation or successor entity shall mail a copy of the notice by registered or certified mail, return receipt requested, to each known claimant of the corporation.

§ 5993. Acceptance or rejection of matured claims.

A dissolved nonprofit corporation or successor entity may reject, in whole or in part, any matured claim made by a claimant pursuant to section 5992 (relating to notice to claimants) by mailing notice of the rejection by registered or certified mail, return receipt requested, to the claimant within 90 days after receipt of the claim and, in all events, at least 30 days before the expiration of the two-year period specified in section 5979(a)(2) (relating to survival of remedies and rights after dissolution). A notice sent pursuant to this section shall include or be accompanied by a copy of this subchapter and of section 5979.

§ 5994. Disposition of unmatured claims.

The dissolved nonprofit corporation or successor entity shall offer any claimant whose claim made pursuant to section 5992 (relating to notice to claimants) is contingent, conditional or unmatured, such security as the corporation or successor entity determines is sufficient to provide compensation to the claimant if the claim matures. The corporation or successor entity shall mail the offer to the claimant by registered or certified mail, return receipt requested, within 90 days after receipt of the claim and, in all events, at least 30 days before the expiration of the two-year period specified in section 5979(a)(2) (relating to survival of remedies and rights after dissolution). A notice sent pursuant to this section shall include or be accompanied by a copy of this subchapter and of section 5979. If the claimant offered the security does not deliver to the corporation or successor entity a written notice rejecting the offer within 60 days after mailing of the offer for security, the claimant shall be deemed to have accepted the security as the sole source from which to satisfy his claim against the corporation.

§ 5995. Court proceedings.

(a) General rule.—A dissolved nonprofit corporation or successor entity that has given notice in accordance with section 5992 (relating to notice to claimants) shall file an application with the court for a determination of the amount and form of security that will be sufficient to provide compensation to:

(1) Claimants whose matured claims are known to the corporation or successor entity but whose identities are unknown.

(2) Any claimant who has rejected the offer for security made pursuant to section 5994 (relating to disposition of unmatured claims).

(b) Guardian ad litem.—The court shall appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this subchapter. The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, shall be paid by the applicant in the proceeding unless otherwise ordered by the court.

§ 5996. No revival or waiver.

The giving of any notice or making of any offer under this subchapter shall not revive any claim then barred or constitute acknowledgment by the dissolved nonprofit corporation or successor entity that any person to whom the notice is sent is a proper claimant and shall not operate as a waiver of any defense or counterclaim in respect of any claim asserted by any person to whom the notice is sent.

§ 5997. Payments and distributions.

(a) General rule.—A dissolved nonprofit corporation or successor entity that has elected to proceed under the preceding provisions of this subchapter shall:

(1) Pay the claims made and not rejected under section 5993 (relating to acceptance or rejection of matured claims).

(2) Post the security offered and not rejected under section 5994 (relating to disposition of unmatured claims).

(3) Post security ordered by the court in any proceeding under section 5995 (relating to court proceedings).

(4) Pay or make provision for all other liabilities of the corporation or the successor entity.

(b) Disposition.—The claims and liabilities shall be paid in full and any provision for payment shall be made in full if there are sufficient assets. If there are insufficient assets, the claims and liabilities shall be paid or provided for in order of their priority and, among claims of equal priority, ratably to the extent of funds legally available therefor. Any remaining assets shall be distributed as provided in the last sentence of section 5975(c) (relating to winding up and distribution), except that the distribution shall not be made less than 60 days after the last notice of rejection, if any, was given under section 5993.

(c) Evaluation of other liabilities.—In the absence of actual fraud, the judgment of the board of directors or other body of the dissolved corporation or the governing persons of the successor entity as to the provision made for the payment of all liabilities under subsection (a)(4) shall be conclusive.

(d) Disposition in absence of claims procedure.—A dissolved corporation or successor entity that has not followed the procedures in the preceding provisions of this subchapter shall pay or make reasonable provision to pay all claims and liabilities, including all contingent, conditional or unmatured claims known to the corporation or the successor entity and all claims that are known to the corporation or the successor entity but for which the

identity of the claimant is unknown. The claims shall be paid in full and any such provision for payment made shall be made in full if there are sufficient assets. If there are insufficient assets, the claims and liabilities shall be paid or provided for according to their priority and, among claims of equal priority, ratably to the extent of funds legally available therefor. Any remaining assets shall be distributed as provided in the last sentence of section 5975(c).

(e) **Liability of directors.**—Directors or members of an other body of a dissolved corporation or governing persons of a successor entity that has complied with this section shall not be personally liable to the claimants of the dissolved corporation.

§ 5998. **Liability of members.**

(a) **General rule.**—A member of a dissolved nonprofit corporation, the assets of which were distributed pursuant to section 5997 (relating to payments and distributions), shall not be liable for any claim against the corporation in an amount in excess of the member's pro rata share of the claim or the amount, if any, distributed to the member, whichever is less.

(b) **Limitation of actions.**—A member of a dissolved corporation, the assets of which were distributed pursuant to section 5997(a) through (c), shall not be liable for any claim against the corporation on which an action is not commenced prior to the expiration of the period specified in section 5979(a)(2) (relating to survival of remedies and rights after dissolution).

(c) **Limitation of liability.**—The aggregate liability of any member of a dissolved corporation for claims against the dissolved corporation shall not exceed the amount, if any, distributed to the member in dissolution.

§ 6101. **Application of article.**

(a) **General rule.**—Except as otherwise provided *in this section or* in subsequent provisions of this article, this article shall apply to and the words "corporation" or "foreign *nonprofit* corporation" in this article shall **[mean a] include every** foreign corporation not-for-profit.

(b) **Government entities.**—This article shall also apply to and the words "corporation," "foreign corporation" and "foreign **[corporation not-for-profit] nonprofit corporation**" shall include a government or other sovereign (other than the Commonwealth) and any governmental corporation, agency or other entity thereof.

(c) **Admitted foreign fraternal benefit society exclusion.**—*This article shall not apply to any foreign corporation not-for-profit qualified to do business in this Commonwealth under section 603 of the act of July 29, 1977 (P.L. 105, No. 38), known as the Fraternal Benefit Society Code.*

§ 6121. **Admission of foreign corporations.**

(a) **General rule.**—A foreign *nonprofit* corporation **[not-for-profit]**, before doing business in this Commonwealth, shall procure a certificate of authority to do so from the Department of State, in the manner provided in this subchapter. A foreign *nonprofit* corporation **[not-for-profit]** shall not be denied a certificate of authority by reason of the fact that the laws of the jurisdiction governing its incorporation and internal affairs differ from the laws of this Commonwealth.



(b) Qualification under former statute.—If a foreign corporation was on March 19, 1966, admitted to do business in this Commonwealth by the filing of a power of attorney and statement under the act of June 8, 1911 (P.L. 710, No. 283), such power of attorney and statement shall be deemed an approved application for a certificate of authority issued under this subchapter and [such] *the* corporation shall be deemed a holder of [such a] *the* certificate. [Such] *The* corporation shall include in its initial application, if any, for an amended certificate of authority under this subchapter the information required by this subchapter to be set forth in an application for a certificate of authority. *A certificate of authority issued under the former provisions of the Nonprofit Corporation Law of 1933 or former 15 Pa.C.S. Pt. III Art. B, known as the Nonprofit Corporation Law of 1972, as added by the act of November 15, 1972 (P.L. 1063, No. 271), shall be deemed to be issued under this subchapter and the certificate of authority shall be deemed not to contain any reference to the kind of business that the corporation proposes to do in this Commonwealth.*

§ 6122. Excluded activities.

(a) General rule.—Without excluding other activities which may not constitute doing business in this Commonwealth, a foreign *nonprofit* corporation [not-for-profit] shall not be considered to be doing business in this Commonwealth for the purposes of this subchapter by reason of carrying on in this Commonwealth any one or more of the following acts:

(1) Maintaining or defending any action or [any] administrative or arbitration proceeding or effecting the settlement thereof or the settlement of claims or disputes.

(2) Holding meetings of its directors, *other body* or members or *carrying on other activities concerning its internal affairs*.

(3) Maintaining bank accounts.

(4) Maintaining offices or agencies for the transfer, exchange and registration of its memberships or securities, or appointing and maintaining trustees or depositories with relation to its memberships or securities.

(5) Granting funds.

(6) Distributing information to its members.

(7) Creating as borrower or lender [evidences of debt], *acquiring or incurring obligations or mortgages*[, and rights in real] or *other* security interests in *real or* personal property.

(8) [Collecting] *Securing or collecting* debts [and] or enforcing [mortgages and] *any* rights in property securing [the same] *them*.

(9) Transacting any business in interstate or foreign commerce.

(10) Conducting an isolated transaction completed within a period of 30 days and not in the course of a number of repeated transactions of like nature.

(11) Inspecting, appraising and acquiring real estate and mortgages and other liens thereon and personal property and security interests therein, and holding, leasing [away], conveying and transferring [the same] *them*, as fiduciary or otherwise.

(b) Exceptions.—The specification of activities in subsection (a) does not establish a standard for activities **[which] that** may subject a foreign corporation to:

- (1) **[service] Service** of process under any statute[;] **or general rule.**
- (2) **[taxation] Taxation** by the Commonwealth or any political subdivision thereof[; or].
- (3) **[the] The** provisions of section 6145 (relating to applicability of certain safeguards to foreign corporations).

**§ 6123. [Restriction on admission of foreign corporations] Requirements for foreign corporation names.**

(a) General rule.—The Department of State shall not issue a certificate of authority to any foreign **[corporation not-for-profit:**

(1) **If the application for the certificate of authority required to be filed by this subchapter sets forth any kind of business which a foreign corporation not-for-profit may not lawfully do in this Commonwealth.**

(2) **The name of which is not expressed in English letters or characters.**

(3) **Which, except as provided in subsection (b) of this section, has a name which under section 7313 of this title (relating to corporate name) is not available through consent or otherwise for use by a domestic nonprofit corporation or a domestic cooperative corporation, as the case may be.]**

***nonprofit corporation that, except as provided in subsection (b), has a name that is rendered unavailable for use by a domestic nonprofit corporation by any provision of section 5303(a), (b) or (c) (relating to corporate name).***

**[(b) Exception; name.—The provisions of section 5303(b) (relating to duplicate use of names) shall not prevent the issuance of a certificate of authority to a foreign corporation not-for-profit setting forth a name which is similar to the name of any other domestic or foreign corporation for-profit or corporation not-for-profit, if:**

(1) **the department finds, upon proof by affidavit or otherwise as it may determine, that:**

(i) **the applicant has engaged in business as a corporation under its proposed name for not less than three consecutive years immediately prior to the date of its application;**

(ii) **the business to be conducted in this Commonwealth is not the same as or similar to the business conducted in this Commonwealth by the corporation with whose name it may conflict; and**

(iii) **the public is not likely to be confused or deceived; and**

(2) **the applicant shall agree in its application for a certificate of authority to use with its corporate name in this Commonwealth, to be placed immediately under or following such name, the words “a ... (name or abbreviation of jurisdiction of incorporation) corporation.”]**

**(b) Exceptions.—**

**(1) *The provisions of section 5303(b) (relating to duplicate use of names) shall not prevent the issuance of a certificate of authority to a foreign nonprofit corporation setting forth a name that is confusingly similar to the name of any other domestic or foreign corporation for profit***

*or corporation not-for-profit, or of any domestic or foreign limited partnership that has filed a certificate or qualified under Chapter 85 (relating to limited partnerships) or corresponding provisions of prior law, or of any corporation or other association then registered under 54 Pa.C.S. Ch. 5 (relating to corporate and other association names) or to any name reserved or registered as provided in this part, if the foreign nonprofit corporation applying for a certificate of authority files in the department one of the following:*

*(i) A resolution of its board of directors or other body adopting a fictitious name for use in transacting business in this Commonwealth which fictitious name is not confusingly similar to the name of the other corporation or other association or to any name reserved or registered as provided in this part and that is otherwise available for use by a domestic nonprofit corporation.*

*(ii) The written consent of the other corporation or other association or holder of a reserved or registered name to use the same or confusingly similar name and one or more words are added to make the name applied for distinguishable from the other name.*

*(2) The provisions of section 5303(c) (relating to required approvals or conditions) shall not prevent the issuance of a certificate of authority to a foreign nonprofit corporation setting forth a name that is prohibited by that subsection if the foreign nonprofit corporation applying for a certificate of authority files in the department a resolution of its board of directors adopting a fictitious name for use in transacting business in this Commonwealth that is available for use by a domestic nonprofit corporation.*

§ 6124. Application for a certificate of authority.

(a) General rule.—[The foreign corporation not-for-profit shall file in the Department of State an application for a certificate of authority and at the same time shall deliver to the department a certificate of the appropriate official of the jurisdiction under the laws of which it was incorporated, dated within 60 days of delivery of he application to the Department of State, to the effect that it is a corporation duly incorporated and existing under the laws of such jurisdiction. The] *An application for a certificate of authority shall be executed [under the seal of the corporation, by two duly authorized officers thereof,] by the foreign nonprofit corporation and shall set forth:*

*(1) The name of the corporation.*

*(2) The name of the jurisdiction under the laws of which it is incorporated.*

*(3) The address, including street and number, if any, of its principal office under the laws of [its domiciliary jurisdiction] the jurisdiction in which it is incorporated.*

*(4) [The] Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its proposed registered office in this Commonwealth.*

*(5) [A brief statement of the business it proposes to do within this Commonwealth and a statement that such business is authorized by its articles.*

(6) A statement that it is a corporation incorporated for a purpose or purposes not involving pecuniary profit, incidental or otherwise.

(b) Advertisement.—A foreign *nonprofit* corporation shall officially publish notice of its intention to apply or its application for a certificate of authority. The notice may appear prior to or after the day on which application is made to the Department of State[,] and shall set forth briefly:

(1) A statement that the corporation will apply or has applied for a certificate of authority under the provisions of the Nonprofit Corporation Law of 1988.

(2) The name of the corporation and of the jurisdiction under the laws of which it is incorporated.

(3) The address, including street and number, if any, of its principal office under the laws of [its domiciliary jurisdiction] *the jurisdiction in which it is incorporated*.

(4) [The] *Subject to section 109*, the address, including street and number, if any, of its proposed registered office in this Commonwealth.

[(5) The character and nature of the business it proposes to do within this Commonwealth.

(6) The date when its application for a certificate of authority will be or was filed in the Department of State.]

(c) *Filing.—The application for a certificate of authority shall be filed in the Department of State.*

[(c)] (d) Cross reference.—See section 134 (relating to docketing statement).

§ 6125. Issuance of certificate of authority.

Upon the filing of the application for a certificate of authority [and accompanying documents required by this subchapter, the Department of State shall issue to], the *foreign nonprofit* corporation *shall be deemed to hold* a certificate of authority to do business in this Commonwealth. [The certificate of authority shall be annexed to or endorsed upon the application for a certificate of authority and shall state that subject to the Constitution and laws of this Commonwealth the corporation named in such application is authorized to do in this Commonwealth the business specified in such application.]

§ 6126. Amended certificate of authority.

(a) General rule.—After receiving a certificate of authority, a qualified foreign *nonprofit* corporation may, subject to the provisions of this subchapter, change [its name, or be authorized to do in this Commonwealth other or additional business than that authorized by its certificate of authority,] *the name under which it is authorized to transact business in this Commonwealth* by filing in the Department of State an application for an amended certificate of authority[, and if the application is for or includes a change of name, a certificate of the appropriate official of the jurisdiction under the laws of which it was incorporated, dated within 60 days of the delivery of the application to the department, to the effect that it is a corporation duly incorporated and existing under the laws of such jurisdiction under the new name. Such]. *The application shall be executed [under the seal*

of the corporation by two duly authorized officers thereof,] *by the corporation* and shall state:

(1) The name under which the applicant corporation [received] *currently holds* a certificate of authority to do business [within] *in* this Commonwealth.

(2) The name of the jurisdiction under the laws of which the corporation is incorporated.

(3) The address, including street and number, if any, of its principal office under the laws of [its domiciliary jurisdiction] *the jurisdiction in which it is incorporated.*

(4) [The] *Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the* address, including street and number, if any, of its registered office in this Commonwealth *which may constitute a change in the address of its registered office.*

(5) The [change in the certificate of authority of the corporation which is desired and a statement that the change of name, if any, reflects a change effected in the jurisdiction of incorporation or that the amended statement of the business, if any, proposed to be done in this Commonwealth is such as is authorized by the articles of the corporation in its domiciliary jurisdiction, or both.] *new name of the corporation and a statement that either:*

(i) *the change of name reflects a change effected in the jurisdiction of incorporation; or*

(ii) *documents complying with section 6123(b) (relating to exceptions) accompany the application.*

**[(b) Advertisement.—A foreign corporation shall officially publish notice of its intention to apply or its application for an amended certificate of authority in a manner similar to that prescribed in this subchapter in the case of the filing of an application for a certificate of authority. The notice may appear prior to or after the day on which application is filed in the Department of State, and shall in addition to the foregoing requirements set forth briefly:**

(1) **If the application is for permission to do in this Commonwealth other or additional business, the character and nature of the business it proposes to do under the amended certificate of authority.**

(2) **If the application is for a change of name, the new name under which it proposes to do business.**

**(c) [(b) Issuance of amended certificate of authority.—Upon the filing of [such application the Department of State shall issue to] the application, the applicant corporation shall be deemed to hold an amended certificate of authority. [The amended certificate of authority shall be annexed to or endorsed upon the application for an amended certificate of authority and shall state that, subject to the Constitution and laws of this Commonwealth, the certificate of authority of the corporation named in such application is amended as specified in such application.**

**(d) [(c) Cross reference.—See section 134 (relating to docketing statement).**

§ 6127. Merger **[or]**, consolidation *or division* of qualified foreign corporations.

(a) General rule.—Whenever a qualified foreign *nonprofit* corporation **[shall be]** *is* a nonsurviving party to a statutory merger **[or]**, consolidation *or division* permitted by the laws of the jurisdiction under which it is incorporated, the corporation surviving the merger, or the new corporation resulting from the consolidation *or division*, as the case may be, shall file in the Department of State a statement of merger **[or]**, consolidation *or division*, which shall be executed by the surviving or new corporation and shall set forth:

(1) The name of each nonsurviving qualified foreign *nonprofit* corporation.

(2) The name of the jurisdictions under the laws of which each nonsurviving qualified foreign *nonprofit* corporation was incorporated.

(3) The date on which each nonsurviving qualified foreign *nonprofit* corporation received a certificate of authority to do business **[within]** *in* this Commonwealth.

(4) A statement that the corporate existence of each nonsurviving qualified foreign *nonprofit* corporation has been terminated by merger **[or]**, consolidation *or division*, as the case may be.

(5) In the case of a consolidation<sup>[,]</sup> *or division* or if the surviving corporation was a nonqualified foreign *nonprofit* corporation prior to the merger, the statements on the part of the surviving or new corporation required by section 6124(a) (relating to application for a certificate of authority).

(b) Effect of filing.—The filing of **[such]** *the* statement shall operate, as of the effective date of the merger **[or]**, consolidation *or division*, to cancel the certificate of authority of each nonsurviving constituent corporation **[which]** *that* was a qualified foreign *nonprofit* corporation and to qualify the surviving or new corporation under this subchapter. *If the surviving or new corporation does not desire to continue as a qualified foreign nonprofit corporation, it may thereafter withdraw in the manner provided by section 6129 (relating to application for termination of authority).*

(c) Surviving qualified foreign corporations.—It shall not be necessary for a surviving corporation **[which]** *that* was a qualified foreign *nonprofit* corporation to effect any filing under this subchapter with respect to a merger *or division* or to procure **[either a new or]** *an* amended certificate of authority to do business in this Commonwealth<sup>[,]</sup> unless the name of such corporation is changed by **[such merger, or unless the corporation desires to do in this Commonwealth other or additional business than that which it is then authorized to do in this Commonwealth]** *the merger or division*.

(d) Cross reference.—See section 134 (relating to docketing statement).

§ 6128. Revocation of certificate of authority.

(a) General rule.—Whenever the Department of State **[shall find]** *finds* that a qualified foreign *nonprofit* corporation **[is engaged in this Commonwealth in any business which it is not authorized to do by its certificate of authority or by any amended certificate of authority, or]** has failed to secure

an amended certificate of authority as required by this subchapter after changing its name, or has failed or refused to appear by its proper **[officers, agents, or employees] representatives**, or otherwise *to* comply with any subpoena issued by any court having jurisdiction of the subject matter, or to produce **[such]** books, papers, records or documents as required by **[any such]** a subpoena, or is violating any of the laws of this Commonwealth, or that its articles have been revoked or voided by its **[domiciliary]** jurisdiction *of incorporation*, the **[Department of State]** *department* shall give notice and opportunity for hearing by registered or certified mail to **[such]** *the* corporation that **[such]** *the* default exists and that its certificate of authority, including any amendments **[thereto]** *thereof*, will be revoked unless **[such]** *the* default **[shall be]** *is* cured within 30 days after the mailing of **[such]** *the* notice. If **[such]** *the* default **[shall not be]** *is not* cured within **[such]** *the* period of 30 days, the department shall revoke the certificate of authority, including any amendments **[thereto]** *thereof*, of **[such]** *the* foreign *nonprofit* corporation. Upon revoking **[such]** *the* certificate of authority, the department shall mail to the corporation, at its registered office in this Commonwealth, a certificate of revocation.

(b) Effect of revocation.—Upon the issuance of **[such]** *the* certificate of revocation, the authority of the corporation to do business in this Commonwealth shall cease[,] and **[such]** *the* corporation shall not thereafter do any business in this Commonwealth unless it applies for and receives a new certificate of authority.

§ 6129. Application for termination of authority.

(a) General rule.—Any qualified foreign *nonprofit* corporation may withdraw from doing business in this Commonwealth and surrender its certificate of authority by filing in the Department of State an application for termination of authority, executed **[under the seal of]** *by* the corporation **[by two duly authorized officers thereof]**, which shall set forth:

(1) The name of the corporation *and, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its registered office in this Commonwealth.*

(2) The name of the jurisdiction under the laws of which it is incorporated.

(3) The date on which it received a certificate of authority to do business **[within]** *in* this Commonwealth.

**[(4)]** A statement that it revokes its designation of the Department of State or the Secretary of the Commonwealth, as the case may be, as the agency or person on whom process against it may be served in this Commonwealth.

**[(5)]** **(4)** A statement that it surrenders its certificate of authority to do business in this Commonwealth.

**[(6)]** Repealed.

**(7)** A post-office address.

**[(8)]** **(5)** A statement that notice of its intention to withdraw from doing business in this Commonwealth was mailed by certified or registered

mail to each [local government] *municipal corporation* in which the registered office or principal place of business of the corporation in this Commonwealth is located, *and that the official publication required by subsection (b) has been effected.*

(6) *The post office address, including street and number, if any, to which process may be sent in an action or proceeding upon any liability incurred before the filing of the application for termination of authority.*

(b) Advertisement.—A qualified foreign *nonprofit* corporation shall, before filing an application for termination of authority, officially publish and mail a notice of its intention to withdraw from doing business in this Commonwealth in a manner similar to that required by section 5975(b) (relating to notice to creditors and taxing authorities). The notice shall set forth briefly:

(1) The name of the corporation and the jurisdiction under the laws of which it is incorporated.

(2) The address, including street and number, if any, of its principal office under the laws of its [domiciliary] jurisdiction *of incorporation.*

(3) [The] *Subject to section 109, the* address, including street and number, if any, of its *last* registered office in this Commonwealth.

[(4) The date on or after which its application for termination of authority will be filed in the Department of State.]

(c) Filing.—[Such application] *The application for termination of authority* and the certificates or statement required by section 139 (relating to tax clearance of certain fundamental transactions) shall be filed in the [Department of State and shall be accompanied by proof of the advertisement required by subsection (b)] *department.* See section 134 (relating to docketing statement).

(d) Effect of filing.—Upon the filing of the application for termination of authority, the authority of the corporation to do business [within] *in* this Commonwealth shall cease. *The termination of authority shall not affect any action or proceeding pending at the time thereof or affect any right of action arising with respect to the corporation before the filing of the application for termination of authority. Process against the corporation in an action upon any liability incurred before the filing of the application for termination of authority may be served as provided in 42 Pa.C.S. Ch. 53 (relating to bases of jurisdiction and interstate and international procedure) or as otherwise provided or prescribed by law.*

§ 6130. Change of address after withdrawal.

(a) General rule.—Any foreign *nonprofit* corporation [not-for-profit withdrawing or which] *that* has withdrawn from doing business in this Commonwealth, *or its successor in interest,* may, from time to time, change the address to which process may be sent in an action upon any liability [or obligation] incurred before the filing of an application for termination of authority[, upon] *by* filing in the Department of State [of] a statement *of change of address by the withdrawn corporation* executed [under the seal of] *by* the corporation [by two duly authorized officers thereof], setting forth:



(1) The name of the [corporation] *withdrawn corporation and, if the statement is filed by a successor in interest, the name and capacity of the successor.*

(2) The name of the jurisdiction under the laws of which [it] *the corporation filing the statement* is incorporated.

(3) The *former post office* address, including street and number, if any, of [its former address] *the withdrawn corporation as of record in the department.*

(4) The *new post office* address, including street and number, if any, of [its new address] *the withdrawn corporation or its successor.*

(b) Cross reference.—See section 134 (relating to docketing statement).

§ 6131. *Registration of name.*

(a) *General rule.*—*A nonqualified foreign nonprofit corporation may register its name under 54 Pa.C.S. Ch. 5 (relating to corporate and other association names) if the name is available for use by a qualified foreign nonprofit corporation under section 6123 (relating to requirements for foreign corporation names), by filing in the Department of State an application for registration of name, executed by the corporation, which shall set forth:*

(1) *The name of the corporation.*

(2) *The address, including street and number, if any, of the corporation.*

(b) *Annual renewal.*—*A corporation that has in effect a registration of its corporate name may renew the registration from year to year by annually filing an application for renewal setting forth the facts required to be set forth in an original application for registration. A renewal application may be filed between October 1 and December 31 in each year and shall extend the registration for the following calendar year.*

(c) Cross reference.—See section 134 (relating to docketing statement).

§ 6144. *Registered office of qualified foreign corporations.*

(a) *General rule.*—*[Every] Subject to the provisions of section 5507(c) (relating to alternative procedure), every qualified foreign nonprofit corporation shall have, and continuously maintain, in this Commonwealth a registered office, which may but need not be the same as its place of business in this Commonwealth.*

(b) *Change.*—*A qualified foreign corporation may, from time to time, change the address of its registered office [upon filing in the Department of State, before such change is made, either an application for an amended certificate of authority setting forth the changed registered office or a statement executed under the seal of the corporation by two duly authorized officers thereof, setting forth:*

(1) *The name of the corporation.*

(2) *The address, including street and number, if any, of its then registered office.*

(3) *The address, including street and number, if any, to which the registered office is to be changed.*

(4) *The procedure whereby such change was authorized.]*

*in the manner provided by section 5507(b) (relating to statement of change of registered office).*

**[(c) Cross reference.—See section 134 (relating to docketing statement).]**  
**§ 6145. Applicability of certain safeguards to foreign corporations.**

\* \* \*

(c) Minimum safeguards.—The following provisions of this subpart shall be applicable to foreign corporations to which this section applies, except that nothing in this subsection shall require the filing of any document in the Department of State as a prerequisite to the validity of any corporate action or the doing of any corporate action by the foreign corporation which is impossible under the laws of its domiciliary jurisdiction:

\* \* \*

(11) Subchapter **[F]** G of Chapter 57 (relating to judicial supervision of corporate action).

\* \* \*

For the purposes of this subsection, corporate action shall not be deemed to be impossible under the laws of the domiciliary jurisdiction of a foreign corporation merely because prohibited or restricted by the terms of the articles, certificate of incorporation, bylaws or other organic law of the corporation, but the court may require the corporation to amend such organic law so as to be consistent with the minimum safeguards prescribed by this subsection.

\* \* \*

#### SUBCHAPTER D DOMESTICATION [(Reserved)]

Sec.

6161. Domestication.

6162. Effect of domestication.

§ 6161. Domestication.

(a) General rule.—Any qualified foreign nonprofit corporation may become a domestic nonprofit corporation by filing in the Department of State articles of domestication. The articles of domestication, upon being filed in the department, shall constitute the articles of the domesticated foreign corporation, and it shall thereafter continue as a corporation which shall be a domestic nonprofit corporation subject to this subpart.

(b) Articles of domestication.—The articles of domestication shall be executed by the corporation and shall set forth in the English language:

(1) The name of the corporation. If the name is in a foreign language, it shall be set forth in Roman letters or characters or Arabic or Roman numerals.

(2) Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its registered office in this Commonwealth.

(3) A statement that upon domestication the corporation will be subject to the domestic corporation provisions of the Nonprofit Corpora-

tion Law of 1988 and a brief statement of the purpose or purposes for which it is to be domesticated which shall be a purpose or purposes for which a domestic nonprofit corporation may be incorporated under Article B (relating to domestic nonprofit corporations generally).

(4) The term for which upon domestication it is to exist, if not perpetual.

(5) Any desired provisions relating to the manner and basis of reclassifying the memberships in the corporation.

(6) A statement that the filing of articles of domestication and, if desired, the renunciation of the original charter or articles of the corporation has been authorized (unless its charter or other organic documents require a greater vote) by a majority of the votes cast by all members entitled to vote thereon and, if any class of members is entitled to vote thereon as a class, a majority of the votes cast in each class vote.

(7) Any other provisions authorized by Article B to be set forth in the original articles.

(c) Cross reference.—See section 134 (relating to docketing statement).

§ 6162. Effect of domestication.

As a domestic nonprofit corporation, the domesticated corporation shall no longer be a foreign nonprofit corporation for the purposes of this subpart and shall have all the powers and privileges and be subject to all the duties and limitations granted and imposed upon domestic nonprofit corporations. The property, franchises, debts, liens, estates, taxes, penalties and public accounts due the Commonwealth shall continue to be vested in and imposed upon the corporation to the same extent as if it were the successor by merger of the domesticating corporation with and into a domestic nonprofit corporation under Subchapter C of Chapter 59 (relating to merger, consolidation and sale of assets). Memberships in the domesticated corporation shall be unaffected by the domestication except to the extent, if any, reclassified in the articles of domestication.

§ 7102. Cooperative corporations generally.

(a) General rule.—Any corporation incorporated under this part may be organized on the cooperative principle by setting forth in its articles a common bond of membership among its shareholders or members by reason of occupation, residence or otherwise and that it is a cooperative corporation.

(b) Applicable law.—A corporation incorporated under this subpart shall be governed by the applicable provisions of this subpart and, to the extent not inconsistent with this subpart:

(1) Subpart B (relating to business corporations) if its articles state that it is incorporated for a purpose or purposes involving pecuniary profit, incidental or otherwise, to its shareholders or members or if its articles are silent on the subject.

(2) Subpart C (relating to nonprofit corporations) if:

(i) [Its] *its* articles state that it is incorporated for a purpose or purposes not involving pecuniary profit[.]; or

(ii) [(Reserved).] *it is subject to Chapter 73 (relating to electric cooperative corporations).*

(c) **Credit unions.**—This subpart shall not apply to a credit union, whether proposed or existing, except as otherwise [expressly provided in this subpart or as otherwise] provided by [statute applicable to the corporation] *Title 17 (relating to credit unions).*

(d) **Workers' cooperative corporations.**—*Except as otherwise expressly provided in Chapter 77 (relating to workers' cooperative corporations), only Chapters 1 (relating to general provisions), 5 (relating to corporations) and 77 shall apply to a corporation subject to Chapter 77. A cooperative corporation may be incorporated under this chapter notwithstanding the fact that its corporate purposes consist of or include a purpose or purposes within the scope of Chapter 77.*

§ 7103. Use of term "cooperative" in corporate name.

\* \* \*

(b) **Cross reference.**—See section [7 of the act of June 21, 1937 (P.L.1969, No.389), known as the Electric Cooperative Corporation Act] *7307 (relating to prohibition on use of words "electric cooperative").*

§ 7104. *Election of an existing business corporation to become a cooperative corporation.*

(a) **General rule.**—*Any business corporation not organized on the cooperative principle may become a cooperative corporation for profit under this chapter by:*

(1) *Adopting a plan of conversion:*

(i) *providing for the redemption by the corporation of all of its shares, whether or not redeemable by the terms of its articles, if the corporation is to be organized as a nonstock corporation; and*

(ii) *adjusting its affairs so as to comply with the requirements of this chapter applicable to cooperative corporations.*

(2) *Filing articles of amendment which shall contain, in addition to the requirements of section 1915 (relating to articles of amendment):*

(i) *A statement that the corporation elects to become a cooperative corporation.*

(ii) *The provisions required by section 7102(a) (relating to cooperative corporations generally) to be set forth in the articles of a cooperative corporation.*

(iii) *If the corporation is to be a nonstock corporation, a statement that the corporation is organized on a nonstock basis.*

(iv) *Such other changes, if any, that may be desired in the articles.*

(b) **Procedure.**—*The plan of conversion of the corporation into a cooperative corporation (which plan shall include the amendment of the articles required by subsection (a)) shall be adopted in accordance with the requirements of Subchapter B of Chapter 19 (relating to amendment of articles) except that:*

(1) *The holders of shares of every class shall be entitled to vote on the plan regardless of any limitations stated in the articles or bylaws on the voting rights of any class.*

(2) *The plan must be approved by two-thirds of the votes cast by all shares of each class.*

(3) *If any shareholder of a business corporation that adopts a plan of conversion into a cooperative corporation objects to the plan of conversion and complies with the provisions of Subchapter D of Chapter 15 (relating to dissenters rights), the shareholder shall be entitled to the rights and remedies of dissenting shareholders therein provided. There shall be included in or enclosed with the notice of the meeting of shareholders called to act upon the plan of conversion a copy or a summary of the plan and a copy of Subchapter D of Chapter 15 and of this subsection.*

(4) *The plan shall not impose any additional liability upon any existing patron of the business of the corporation, whether or not that person becomes a member of the corporation pursuant to the plan, unless the patron expressly assumes such liability.*

§ 7105. *Termination of status as a cooperative corporation for profit.*

(a) *General rule.—A cooperative corporation for profit may terminate its status as such and cease to be subject to this chapter by:*

(1) *Adopting a plan of conversion:*

(i) *providing for the issue of appropriate shares to its members if it is organized as a nonstock corporation and is not to continue as such; and*

(ii) *adjusting its affairs so as to comply with the requirements of this subpart applicable to business corporations that are not cooperative corporations.*

(2) *Amending its articles to delete therefrom the additional provisions required or permitted by:*

(i) *sections 2102(a)(1) (relating to formation of nonstock corporations) and 2103 (relating to contents of articles and other documents of nonstock corporations) to be stated in the articles of a nonstock corporation if it is organized as a nonstock corporation and is not to continue as such;*

(ii) *section 7102(a) (relating to cooperative corporations generally) to be stated in the articles of a cooperative corporation; and*

(iii) *section 7103 (relating to use of term "cooperative" in corporate name).*

(b) *Procedure.—The plan of conversion (which plan shall include the amendment of the articles required by this section) shall be adopted in accordance with Subchapter B of Chapter 19 (relating to amendment of articles) except that:*

(1) *The members of every class shall be entitled to vote on the plan regardless of any limitations stated in the articles or bylaws, or in a document evidencing membership, on the voting rights of any class.*

(2) *The plan must be approved by a majority of the votes cast by the members of each class.*

(c) *Increased vote requirements.—The bylaws of a cooperative corporation for profit adopted by the shareholders or members may provide that, on any amendment to terminate its status as a cooperative corporation, a vote*

*greater than that specified in subsection (b) shall be required. If the bylaws contain such a provision, that provision shall not be amended, repealed or modified by any vote less than that required to terminate the status of the corporation as a cooperative corporation.*

**§ 7106. Election of an existing nonprofit corporation to become a cooperative corporation.**

*(a) General rule.—Any nonprofit corporation not organized on the cooperative principle may become a nonprofit cooperative corporation under this chapter by:*

*(1) Adopting a plan of conversion adjusting its affairs so as to comply with the requirements of this chapter applicable to cooperative corporations.*

*(2) Filing articles of amendment which shall contain, in addition to the requirements of section 5915 (relating to articles of amendment):*

*(i) A statement that the corporation elects to become a cooperative corporation.*

*(ii) The provisions required by section 7102(a) (relating to cooperative corporations generally) to be set forth in the articles of a cooperative corporation.*

*(iii) Such other changes, if any, that may be desired in the articles.*

*(b) Procedure.—The plan of conversion of the corporation into a cooperative corporation (which plan shall include the amendment of the articles required by subsection (a)) shall be adopted in accordance with the requirements of Subchapter B of Chapter 59 (relating to amendment of articles) except that:*

*(1) The members of every class shall be entitled to vote on the plan regardless of any limitations stated in the articles or bylaws, or in a document evidencing membership, on the voting rights of any class.*

*(2) The plan must be approved by two-thirds of the votes cast by the members of each class.*

*(3) The plan shall not impose any additional liability upon any existing patron of the business of the corporation, whether or not that person becomes a member of the corporation pursuant to the plan, unless the patron expressly assumes such liability.*

**§ 7107. Termination of nonprofit cooperative corporation status.**

*(a) General rule.—A nonprofit cooperative corporation may terminate its status as such and cease to be subject to this chapter by:*

*(1) Adopting a plan of conversion adjusting its affairs so as to comply with the requirements of this subpart applicable to nonprofit corporations that are not cooperative corporations.*

*(2) Amending its articles to delete therefrom the additional provisions required or permitted by:*

*(i) section 7102(a) (relating to cooperative corporations generally) to be stated in the articles of a cooperative corporation; and*

*(ii) section 7103 (relating to use of term "cooperative" in corporate name).*

**(b) Procedure.**—*The plan of conversion (which plan shall include the amendment of the articles required by this section) shall be adopted in accordance with Subchapter B of Chapter 59 (relating to amendment of articles) except that:*

**(1)** *The members of every class shall be entitled to vote on the plan regardless of any limitations stated in the articles or bylaws, or in a document evidencing membership, on the voting rights of any class.*

**(2)** *The plan must be approved by a majority of the votes cast by the members of each class.*

**(c) Increased vote requirements.**—*The bylaws of a nonprofit cooperative corporation adopted by the members may provide that, on any amendment to terminate its status as a cooperative corporation, a vote greater than that specified in subsection (b) shall be required. If the bylaws contain such a provision, that provision shall not be amended, repealed or modified by any vote less than that required to terminate the status of the corporation as a cooperative corporation.*

## CHAPTER 73 ELECTRIC COOPERATIVE CORPORATIONS

### Subchapter

- A. Preliminary Provisions
- B. Powers, Duties and Safeguards
- C. Unincorporated Area Certified Territory

### SUBCHAPTER A PRELIMINARY PROVISIONS

#### Sec.

- 7301. Short titles.
- 7302. Application of chapter.
- 7303. Definitions.
- 7304. Number and qualifications of incorporators.
- 7305. Purpose.
- 7306. Articles of incorporation.
- 7307. Prohibition on use of words “electric cooperative.”
- 7308. Liberal construction.

#### § 7301. Short titles.

(a) Short title of chapter.—This chapter shall be known and may be cited as the Electric Cooperative Law of 1990.

(b) Short title of Subchapter C.—Subchapter C shall be known and may be cited as the Unincorporated Area Certified Territory Law of 1990.

#### § 7302. Application of chapter.

(a) General rule.—This chapter shall apply to and, unless the context clearly indicates otherwise, the term “corporation” or “electric cooperative corporation” in this chapter shall mean a corporation incorporated under:

- (1) the act of June 21, 1937 (P.L.1969, No.389), known as the Electric Cooperative Corporation Act; or

(2) this chapter.

(b) Provisions complete in themselves.—The provisions of this chapter, as supplemented by or pursuant to Subchapters A (relating to general provisions) and C (relating to cooperative contracts) of Chapter 71, are complete in themselves and shall be controlling. The provisions of any other law of this Commonwealth, except as provided in Part V of Title 1 (relating to statutory construction) and in this chapter, shall not apply to a corporation subject to this chapter.

§ 7303. Definitions.

The following words and phrases when used in this subchapter and Subchapter B (relating to powers, duties and safeguards) shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Acquire.” Construct or acquire by purchase, lease, devise, gift or other mode of acquisition.

“Board.” A board of directors of a corporation.

“Federal agency.” Includes the United States of America and any department, administration, commission, board, bureau, office, establishment, agency, authority or instrumentality of the United States of America, heretofore or hereafter created.

“Member.” The incorporators of a corporation and each person thereafter lawfully admitted to membership therein.

“Obligations.” Includes bonds, notes, debentures, interim certificates or receipts and all other evidences of indebtedness issued by a corporation, whether secured or unsecured.

“Person.” Includes any Federal agency, State or political subdivision thereof or any body politic.

“Rural area.” Any area, not included within the boundaries of any incorporated or unincorporated city, town, village or borough, having a population in excess of 2,500 inhabitants, including both the farm and nonfarm population thereof.

§ 7304. Number and qualifications of incorporators.

Three or more natural persons of full age who are residents of this Commonwealth may incorporate an electric cooperative corporation.

§ 7305. Purpose.

Nonprofit cooperative corporations may be organized under this chapter for the purpose of engaging in rural electrification by any one or more of the following methods:

(1) Furnishing of electric energy to persons in rural areas who are not receiving central station service.

(2) Assisting in the wiring of the premises of persons in rural areas or the acquisition, supply or installation of electrical or plumbing equipment therein.

(3) Furnishing of electric energy, wiring facilities, electrical or plumbing equipment or services to any other corporation or to the members thereof.



§ 7306. Articles of incorporation.

(a) General rule.—The articles of incorporation shall state:

(1) The name of the corporation, which shall include the words “Electric Cooperative” and the word “Corporation,” “Incorporated,” “Inc.” or “Company” and shall not be confusingly similar to the name of any other corporation.

(2) The purpose for which the corporation is formed.

(3) The names and addresses of the incorporators who shall serve as directors and manage the affairs of the corporation until its first annual meeting of members or until their successors are elected and qualify.

(4) The number of directors, not less than three, to be elected at the annual meetings of members.

(5) Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its registered office.

(6) The period of duration of the corporation, which may be perpetual.

(7) The terms and conditions upon which persons will be admitted to membership and retain membership in the corporation, but, if expressly so stated, the determination of these matters may be reserved to the directors by the bylaws.

(8) Any provisions, not inconsistent with law, which the incorporators choose to insert for the regulation of the business and affairs of the corporation.

(b) Cross references.—See section 134 (relating to docketing statement) and Subchapter A of Chapter 53 (relating to incorporation generally).

§ 7307. Prohibition on use of words “electric cooperative.”

The words “electric cooperative” shall not be used in the corporate name of any domestic or foreign corporation for profit or not-for-profit other than a corporation existing under this chapter.

§ 7308. Liberal construction.

All of the provisions of law applicable to electric cooperative corporations shall be construed liberally. The enumeration of any object, purpose, power, manner, method or thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods or things. See section 7302(b) (relating to provisions complete in themselves).

## SUBCHAPTER B POWERS, DUTIES AND SAFEGUARDS

Sec.

7321. Special powers and limitations.

7322. Bylaws.

7323. Exemption of members from liability for debts of corporation.

7324. Qualifications of members.

7325. Annual meeting of members.

7326. Voting by members.

7327. Certificates of membership.

7328. Quorum of members.

- 7329. Directors.
- 7330. Nonprofit operation.
- 7331. Merger, consolidation, division or sale of assets.
- 7332. Dissolution.
- 7333. License fee; exemption from excise taxes.
- 7334. Exemption from jurisdiction of Public Utility Commission.
- 7335. Limited exemption from Securities Act.

§ 7321. Special powers and limitations.

(a) General rule.—Each electric cooperative corporation shall have power (in addition to or limitation of the powers conferred by section 5502 (relating to general powers)):

(1) To generate, manufacture, purchase, acquire and accumulate electric energy and to transmit, distribute, sell, furnish and dispose of such electric energy to its members only; and to construct, erect, purchase, lease as lessee and, in any manner, acquire, own, hold, maintain, operate, sell, dispose of, lease as lessor, exchange and mortgage plants, buildings, works, machinery, supplies, equipment, apparatus and transmission and distribution lines or systems necessary, convenient or useful.

(2) To assist its members only to wire their premises and install therein electrical and plumbing fixtures, machinery, supplies, apparatus and equipment of any and all kinds and character and, in connection therewith and for those purposes, to purchase, acquire, lease, sell, distribute, install and repair electrical and plumbing fixtures, machinery, supplies, apparatus and equipment of any and all kinds and character and to receive, acquire, endorse, pledge, hypothecate and dispose of notes, bonds and other evidences of indebtedness.

(3) To furnish to other corporations organized under this chapter, or to the members thereof, electric energy, wiring facilities, electrical and plumbing equipment and services convenient or useful.

(4) In connection with the acquisition, construction, improvement, operation or maintenance of its lines, to use any highway or any right-of-way, easement or other similar property right owned or held by the Commonwealth or any political subdivision thereof.

(5) To have and exercise the power of eminent domain for the purpose and in the manner provided by the condemnation laws of this Commonwealth relating to public utility corporations for acquiring private property for public use, such right to be paramount except as to property of the Commonwealth or of any political subdivision thereof or any public utility corporation, other than one engaged in furnishing electric energy to the public, except that the right of eminent domain shall exist in order to cross the lines of any public utility not furnishing electric energy if the crossing is effected in such manner as not to interfere with the service lines or the service of the public utility.

(6) To fix, regulate and collect rates, fees, rents or other charges for electric energy and any other facilities, supplies, equipment or services furnished by the corporation.

(7) To accept gifts or grants of money, services or property, real or personal.

(8) To do and perform, either for itself or its members or for any other corporation, or for the members thereof, any and all acts and things and to have and exercise any and all powers as may be necessary, convenient or appropriate to effectuate the purpose for which the corporation is incorporated.

(b) Enumeration unnecessary.—It shall not be necessary to set forth in the articles of the corporation the powers enumerated in this chapter.

§ 7322. Bylaws.

The power to make, alter or repeal the bylaws of an electric cooperative corporation shall be vested in the board of directors. The bylaws may contain any provisions for the regulation and management of the affairs of the corporation, not inconsistent with law or the articles.

§ 7323. Exemption of members from liability for debts of corporation.

A member shall not be liable for the debts of an electric cooperative corporation to an amount exceeding the sums remaining unpaid on his membership fee, but nothing in this chapter shall be construed to relieve any member from the payment of any debt due by him to the corporation.

§ 7324. Qualifications of members.

All persons in rural areas proposed to be served by an electric cooperative corporation, who are not receiving central station service, shall be eligible for membership in the corporation. No person other than the incorporators shall be, become or remain a member of the corporation unless the person uses or agrees to use electric energy or, as the case may be, the facilities, supplies, equipment and services furnished by the corporation. A corporation existing under this chapter may become a member of another such corporation and may avail itself fully of the facilities and services thereof.

§ 7325. Annual meeting of members.

(a) Time of annual meeting.—An annual meeting of the members of an electric cooperative corporation shall be held at such time as may be provided in the bylaws.

(b) Call of special meetings.—Special meetings of the members may be called by:

- (1) the president;
- (2) the board of directors;
- (3) petition signed by not less than one-tenth of all of the members; or
- (4) such other officers or persons as may be provided in the bylaws.

(c) Notice of meetings.—Written notice of every meeting of members shall be delivered not less than ten nor more than 30 days before the date of the meeting. If mailed, the notice shall be deemed to be delivered when deposited in the United States mails in a sealed envelope, addressed to the member at his address as it appears on the records of the corporation, with postage thereon prepaid.

§ 7326. Voting by members.

Each member present shall be entitled to one and only one vote on each matter submitted to a vote at a meeting of members of an electric cooperative

corporation, but voting by proxy or by mail may be provided for in the bylaws.

§ 7327. Certificates of membership.

When a member of an electric cooperative corporation has paid the membership fee in full, a certificate of membership shall be issued to the member. Memberships in the corporation and the certificates shall be nontransferable. The certificate of membership shall be surrendered to the corporation upon the resignation, expulsion or death of the member.

§ 7328. Quorum of members.

Unless otherwise provided in the bylaws, a majority of the members present, in person or represented by proxy, shall constitute a quorum for the transaction of business at a meeting of members of an electric cooperative corporation, but, if voting by mail is provided for in the bylaws, members so voting shall be counted as if present.

§ 7329. Directors.

(a) General rule.—The business and affairs of an electric cooperative corporation shall be managed under the direction of a board of not less than three directors who shall be natural persons of full age. All directors shall be members.

(b) Vacancies.—Any vacancy occurring in the board and any directorship to be filled shall be filled, as provided in the bylaws, by persons who shall serve until directors may be regularly elected.

§ 7330. Nonprofit operation.

(a) General rule.—Each electric cooperative corporation shall be operated without profit to its members, but the rates, fees, rents or other charges for electric energy and any other facilities, supplies, equipment or services furnished by the corporation shall be sufficient at all times:

(1) To pay all operating and maintenance expenses necessary or desirable for the prudent conduct of its business and the principal of and interest on the obligations issued or assumed by the corporation in the performance of the purpose for which it was organized.

(2) For the creation of reserves.

(b) Disposition of revenues.—The revenues of the corporation shall be devoted, first, to the payment of operating and maintenance expenses and the principal and interest on outstanding obligations and, thereafter, to such reserves for improvement, new construction, depreciation and contingencies as the board may, from time to time, prescribe.

(c) Patronage distributions.—Revenues not required for the purposes set forth in subsection (b) shall be returned, from time to time, to the members on a pro rata basis, according to the amount of business done with each during the period, either in cash, in abatement of current charges for electric energy or otherwise, as the board determines, but the return may be made by way of general rate reduction to members if the board so elects.

§ 7331. Merger, consolidation, division or sale of assets.

(a) Merger, consolidation or division.—Any two or more electric cooperative corporations may merge, consolidate or divide but only if the surviving or resulting corporation is a corporation existing under this chapter. Every

merger, consolidation or division shall be proposed by the adoption by the board of directors of a resolution approving the plan of merger, consolidation or division and directing that the plan be submitted to a vote of the members entitled to vote thereon at a regular or special meeting of the members.

(b) Sale of assets.—An electric cooperative corporation may sell, lease, lease-sell, exchange or otherwise dispose of all or substantially all of its assets only when authorized by the affirmative vote of two-thirds of all the members of the corporation.

(1) The plan of asset transfer shall set forth the terms and conditions of the sale, lease, exchange or other disposition or may authorize the board of directors to fix any or all of the terms and conditions, including the consideration to be received by the corporation therefor.

(2) Prior to submission for consideration by the members of the corporation, the board of directors of the corporation shall first give all other domestic electric cooperative corporations an opportunity to submit competing proposals. Such opportunity shall be in the form of a written notice to such corporations, which notice shall be attached to a copy of the proposal which the corporation has already received. Such corporations shall be given not less than 30 days during which to submit competing proposals, and the actual minimum period within which proposals are to be submitted shall be stated in the written notice given to them.

(3) Within 30 days after expiration of the notice period set by the board of directors under paragraph (2), written notice of the special meeting to consider and take action on the plan of asset transfer and expressing in detail each of the proposals shall be given to each member of the corporation. The special meeting shall not be held sooner than 30 days after the giving of such notice to the members.

(4) After a plan of asset transfer has been authorized by the members, the board of directors, in its discretion, may abandon the sale, lease, lease-sell, exchange or other disposition, subject to the rights of third parties under any contracts relating thereto, without further action or approval by the members.

#### § 7332. Dissolution.

An electric cooperative corporation may dissolve only when authorized by the affirmative vote of two-thirds of all the members of the corporation. Any assets remaining after all liabilities or obligations of the corporation have been satisfied or discharged upon dissolution shall be distributed pro rata among the members of the corporation at the time of the filing of the certificate of dissolution.

#### § 7333. License fee; exemption from excise taxes.

Electric cooperative corporations subject to this chapter shall pay annually, on or before July 1, to the Department of Revenue a fee of \$10 for each 100 members or fraction thereof but shall be exempt from all other State taxes of whatsoever kind or nature.

§ 7334. Exemption from jurisdiction of Public Utility Commission.

Except as provided in Subchapter C (relating to unincorporated area certified territory), all electric cooperative corporations subject to this chapter shall be exempt in any and all respects from the jurisdiction and control of the Pennsylvania Public Utility Commission.

§ 7335. Limited exemption from Securities Act.

Whenever any electric cooperative corporation subject to this chapter has borrowed money from any Federal agency, the obligations issued to secure the payment of the money shall be exempt from the provisions of the act of December 5, 1972 (P.L.1280, No.284), known as the Pennsylvania Securities Act of 1972, nor shall the provisions of that act apply to the issuance of membership certificates.

SUBCHAPTER C  
UNINCORPORATED AREA CERTIFIED TERRITORY

Sec.

7351. Application of subchapter.

7352. Definitions.

7353. Geographical areas.

7354. Boundaries of certified territories; hearings.

7355. Obligations and rights within certified territory; new electric-consuming facilities.

7356. Borderline service.

7357. Effect of incorporation, annexation or consolidation.

7358. Enforcement of compliance by commission.

7359. Expenses.

§ 7351. Application of subchapter.

(a) General rule.—This subchapter shall apply only to the establishment of boundaries of certified territory between retail electric suppliers where one supplier is an electric cooperative corporation and the other supplier is subject to the jurisdiction of the Pennsylvania Public Utility Commission for rates, terms and conditions for electric service.

(b) Municipal corporations.—Nothing contained in this subchapter shall in any respect affect any of the rights, privileges or obligations of any municipal corporation furnishing retail electric service.

§ 7352. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Certified territory.” An unincorporated area as certified pursuant to section 7354 (relating to boundaries of certified territories; hearings).

“Commission.” The Pennsylvania Public Utility Commission of the Commonwealth.

“Electric-consuming facilities.” Everything that utilizes electric energy from a central station source.

**“Existing distribution line.”** An electric line of a design voltage of 35 kV phase to phase or less which on July 30, 1975:

- (1) was located in an unincorporated area; and
- (2) was or had been used for retail electric service.

**“Hearing.”** A hearing by the commission pursuant to reasonable notice to all affected retail electric suppliers.

**“Retail electric service.”** Electric service furnished to a consumer for ultimate consumption, but not including wholesale electric energy furnished by an electric supplier to another electric supplier for resale.

**“Retail electric supplier.”** Any person, exclusive of a municipal corporation, engaged in the furnishing of retail electric service. The term shall apply only to a retail electric supplier which is an electric cooperative corporation and to a retail electric supplier which is subject to the jurisdiction of the commission for rates, terms and conditions for electric service and has a mutual boundary in an unincorporated area with an electric cooperative corporation.

**“Unincorporated area.”** A geographical area outside the corporate limits of cities and boroughs.

**§ 7353. Geographical areas.**

It is hereby declared to be in the public interest that, to encourage the orderly development of retail electric service in unincorporated areas, to avoid wasteful duplication of distribution facilities, to avoid unnecessary encumbering of the landscape of the Commonwealth, to prevent the waste of materials and natural resources, to minimize inconvenience, diminished efficiency and higher costs in serving the consumer and otherwise for the public convenience and necessity, the Commonwealth is divided into geographical areas, establishing the unincorporated areas within which each retail electric supplier is to provide retail electric service on an exclusive basis.

**§ 7354. Boundaries of certified territories; hearings.**

(a) **Exclusive territories.**—Except as otherwise provided in this section, a retail electric supplier shall not furnish retail electric service in the certified territory of another retail electric supplier.

(b) **Establishment of boundaries.**—Except as otherwise provided in this section, the boundaries of the certified territory of each retail electric supplier in any unincorporated area are hereby set as a line or lines substantially equidistant between its existing distribution lines and the nearest existing distribution lines of any other retail electric supplier in every direction with the result that there is hereby certified to each retail electric supplier such unincorporated area which in its entirety is located substantially in closer proximity to one of its existing distribution lines than the nearest existing distribution line of any other retail electric supplier.

(c) **Maps of certified territories.**—On or before July 30, 1976, or, when requested in writing by a retail electric supplier and for good cause shown, such further time as the Pennsylvania Public Utility Commission may fix by order, each retail electric supplier shall file with the commission a map or maps showing all of its existing distribution lines as of July 30, 1975. The commission shall prepare or order to be prepared and filed in the manner

and form prescribed by the commission within six months thereafter a map or maps of uniform scale to show, accurately and clearly, the boundaries of the certified territory of each retail electric supplier as established under subsection (a) and shall issue such map or maps of certified territory to each retail electric supplier.

(d) Commission certification of service territories.—In each unincorporated area, where the commission determines that the existing distribution lines of two or more retail electric suppliers are so intertwined or located that subsection (a) cannot reasonably be applied, the commission shall, after hearing, certify the service territory or territories for the retail electric suppliers so as to promote the legislative policy stated in section 7353 (relating to geographical areas).

(e) Examination and correction of maps.—Each retail electric supplier shall have the right to examine the maps of other retail electric suppliers filed with the commission pursuant to this subchapter, and, if any errors are observed, any retail electric supplier may informally petition the commission for a conference of the affected parties to resolve the alleged error. The petitioner shall serve a copy of the petition by certified mail on the retail electric supplier whose map is alleged to contain the error. The commission shall arrange a conference as promptly as practicable after receipt of the petition and shall give notice thereof to all retail electric suppliers affected by the alleged error. If the alleged error is not corrected to the satisfaction of any affected retail electric supplier, the supplier may petition the commission for a hearing, and the hearing shall be granted by the commission as promptly as practicable. Upon completion by the commission of a map or maps showing the boundaries of the certified territory of a retail electric supplier as established under subsection (a), other retail electric suppliers shall have the right to examine the map or maps and, if any errors exist in location of boundary lines, any retail electric supplier aggrieved thereby may informally petition the commission for a conference to resolve the issue of the alleged incorrect location of boundary. The procedure shall be as specified in this section for resolution of alleged errors in the maps supplied by any retail electric supplier.

(f) Adjustment of certified territories.—After the initial establishment of the certified territory of each retail electric supplier, two or more retail electric suppliers may, from time to time, jointly apply to the commission for adjustment of their adjoining certified territories, and, if the commission finds that the adjustment is consistent with the purposes of this subchapter and its standards, the commission shall approve the adjustment and, to the extent required, shall prepare or cause to be prepared revised maps in accordance with subsection (c) to reflect the adjustment.

§ 7355. Obligations and rights within certified territory; new electric-consuming facilities.

(a) Service within certified territory.—Except as otherwise provided in this section, each retail electric supplier shall be obligated (upon receipt of an application in accordance with its tariffs, rules, regulations or bylaws) and shall have the exclusive right to furnish retail electric service to all electric-



consuming facilities located within its certified territory and shall not furnish, make available, render or extend its retail electric service to a consumer for use in electric-consuming facilities located within the certified territory of another retail electric supplier. Any retail electric supplier may extend its facilities through the certified territory of another retail electric supplier if the extension is necessary for the supplier to connect any of its facilities or to serve its consumers within its own certified territory, but any such extension shall not be deemed to be an existing distribution line.

(b) Service to new electric-consuming facilities.—Except as provided in subsections (c) and (e), any new electric-consuming facility located in an unincorporated area which has not as yet been included in a map issued by the Pennsylvania Public Utility Commission pursuant to section 7354(c) (relating to maps of certified territories) or certified pursuant to section 7354(d) (relating to commission certification of service territories) shall be furnished retail electric service by the retail electric supplier which has an existing distribution line in closer proximity to the electric-consuming facility than is the nearest existing distribution line of any other retail electric supplier. Any disputes under this subsection shall be resolved by the commission.

(c) Correction of inadequate service.—If the commission, after hearing, determines that the retail electric service being furnished or proposed to be furnished by a retail electric supplier to an electric-consuming facility is inadequate and is not likely to be made adequate, the commission may authorize another retail electric supplier to furnish retail electric service to that facility.

(d) Electric-consuming facilities served by another retail electric supplier.—Except as provided in subsection (c), no retail electric supplier shall furnish, make available, render or extend retail electric service to any electric-consuming facility to which the service is being lawfully furnished by another retail electric supplier on July 30, 1975, or to which retail electric service is lawfully commenced thereafter in accordance with this section by another retail electric supplier.

(e) Extension of service.—The provisions of this subchapter shall not preclude any retail electric supplier from extending its service after July 30, 1975, to its own property and facilities, but any facilities involved in the extension shall not be deemed an existing distribution line.

§ 7356. Borderline service.

Notwithstanding the establishment of certified territories pursuant to this subchapter and the obligations and rights to furnish service within the territory, a retail electric supplier may request another retail electric supplier to render service to one or more electric-consuming facilities where, in the judgment of the requesting retail electric supplier, it would be more economical or otherwise in the public interest for the other retail electric supplier to do so and to enter into a contract for that purpose with the other retail electric supplier.

§ 7357. Effect of incorporation, annexation or consolidation.

After July 30, 1975, the inclusion by incorporation, consolidation or annexation of any part of the certified territory of a retail electric supplier

within the boundaries of any city or borough shall not in any respect impair or affect the rights of the retail electric supplier to continue and extend electric service at retail throughout any part of its certified territory.

§ 7358. Enforcement of compliance by commission.

Upon proceedings brought by an interested person or by action of the Pennsylvania Public Utility Commission, the commission shall have the jurisdiction to enforce compliance with this subchapter and shall have jurisdiction to prohibit the furnishing of retail electric service by any retail electric supplier except in its certified territory or territories or where lawfully serving and, in connection with the enforcement and prohibition, to exercise all powers granted by this subchapter or otherwise to the commission.

§ 7359. Expenses.

(a) General rule.—The expenses of the Pennsylvania Public Utility Commission in administering this subchapter shall be assessed by the commission against the affected retail electric suppliers on the following basis:

(1) Expenses which relate to the preparation or review of maps to establish the certified territory of a single retail electric supplier in any county or other area where there is no other retail electric supplier shall be assessed solely to such single retail electric supplier.

(2) Expenses which relate to the preparation or review of maps to establish the certified territories of two or more retail electric suppliers in any county or other area where there are two or more retail electric suppliers shall be assessed in equal shares among such retail electric suppliers.

(3) Expenses which relate to the consideration and disposition of alleged errors pursuant to section 7354(e) (relating to examination and correction of maps) and the consideration and disposition of proposed adjustments pursuant to section 7354(f) (relating to adjustment of certified territories) shall be assessed in equal shares among the retail electric suppliers affected thereby.

(4) Expenses which relate to the enforcement by the commission of compliance with this subchapter shall be assessed in equal shares against the retail electric supplier or suppliers to which an order of enforcement is directed. If the enforcement proceedings were initiated by a retail electric supplier or suppliers and if no order of enforcement is issued by the commission, the expenses shall be assessed in equal shares against the retail electric supplier or suppliers initiating the proceedings.

(5) Any other expenses of the commission shall be assessed by the commission in equal shares among the retail electric suppliers that are subject to this subchapter.

(b) Estimated expenses.—The commission may, if it deems such action appropriate, assess expenses on the basis of estimates made by it with appropriate adjustment or credit after final determination of the expenses.

## CHAPTER 75 COOPERATIVE AGRICULTURAL ASSOCIATIONS

### Subchapter

- A. Preliminary Provisions
- B. Powers, Duties and Safeguards

SUBCHAPTER A  
PRELIMINARY PROVISIONS

Sec.

- 7501. Short title of chapter.
- 7502. Application of chapter.
- 7503. Definitions.
- 7504. Policy.
- 7505. Number and qualifications of incorporators.
- 7506. Purposes.
- 7507. Articles of incorporation.

§ 7501. Short title of chapter.

This chapter shall be known and may be cited as the Cooperative Agricultural Association Law of 1990.

§ 7502. Application of chapter.

(a) General rule.—Except as otherwise provided in subsections (b) and (c), this chapter applies to and the word “association” in this chapter means a corporation with or without capital stock incorporated under any of the following:

- (1) The act of June 12, 1919 (P.L.466, No.238), relating to cooperative agricultural associations without capital stock.
- (2) The act of April 30, 1929 (P.L.885, No.394), relating to cooperative agricultural associations with capital stock.
- (3) The act of June 12, 1968 (P.L.173, No.94), known as the Cooperative Agricultural Association Act.
- (4) This chapter.

(b) Acceptance of chapter.—Any other domestic corporation for profit or corporation not-for-profit incorporated under any prior statute relating to cooperative corporations may become an association subject to this chapter by filing in the Department of State a certificate of election of cooperative agricultural association status which shall be executed by the corporation and shall set forth:

- (1) The name of the corporation and, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its registered office.
- (2) The statute under which the corporation was incorporated and the date of incorporation.
- (3) A statement that the members or shareholders of the corporation have elected, by a majority vote of the members or shareholders present and voting at a meeting called for that purpose at which a quorum is present, to accept the provisions of this chapter for the government and regulation of the affairs of the corporation.

(c) Foreign corporations.—This chapter shall apply to and the word “association” in this chapter shall include a foreign corporation for profit or corporation not-for-profit incorporated with or without capital stock under any general or special statute as a cooperative agricultural association for the

mutual benefit of its members, shareholders, patrons and producers. A foreign association shall not transact business as an association in this Commonwealth unless permitted to do so by this chapter, and any violation of this provision may be enjoined upon the application of any domestic association or qualified foreign association.

§ 7503. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Agricultural products.” Includes all livestock and livestock products, dairy and dairy products, poultry and poultry products, horticultural, floricultural and viticultural products, forestry and forestry products, seeds, nuts, mushrooms and bee products and any and all kinds of farm products.

“Board.” The board of directors of an association.

“Delegate.” A member elected in the manner provided by section 7531(b) (relating to election by districts) to represent a local group of members and having the powers and duties specified in the bylaws.

“Department.” The Department of Agriculture of the Commonwealth.

“Engaging in agriculture.” Includes engaging in dairying, livestock raising, poultry raising, furbearing animal raising, horticulture, floriculture, viticulture, forestry, beekeeping, seed growing, nut growing, mushroom growing and engaging in any and all kinds of farming and other allied occupations.

“Member.” The holder of a membership in an association without capital stock or the holder of voting shares in an association organized with capital stock.

“Patron.” A person using the facilities of an association for the marketing of agricultural products or a person using the facilities of an association for the purchase of supplies or the rendering of services.

“Producer.” A person engaging in agriculture.

“Supplies.” Includes any and all types of supplies, machinery and equipment used or consumed by persons engaging in agriculture.

§ 7504. Policy.

(a) General rule.—It is the policy of this Commonwealth, as one means of improving the economic position of agriculture, to encourage the organization of producers of agricultural products into effective cooperative agricultural associations under the control of the producers for their mutual benefit, and to that end this chapter shall be liberally construed. Where applicable to this chapter and to Chapter 71 (relating to cooperative corporations generally), Subparts B (relating to business corporations) and C (relating to nonprofit corporations) of Part II shall be construed, wherever possible, consistent with law applicable to cooperative agricultural associations in general.

(b) Associations not in restraint of trade.—

(1) No association complying with this chapter shall be deemed to be a conspiracy, or a combination in restraint of trade, or an illegal monopoly, or be deemed to have been formed for the purpose of lessening competi-

tion or fixing prices arbitrarily, nor shall the contracts between the association and its producers, or any agreements authorized in this chapter, be construed as an unlawful restraint of trade, or as a part of a conspiracy or combination to accomplish an improper or illegal purpose or act.

(2) An association may acquire, exchange, interpret and disseminate past, present and prospective crop, market, statistical, economic and other similar information relating to the business of the association either directly or through an agent created or selected by it or by other associations acting in conjunction with it.

(3) An association may advise its members in respect to the adjustment of their current and prospective production of agricultural commodities and its relation to the prospective volume of consumption, selling prices and existing or potential surplus to the end that every market may be served from the most convenient productive areas under a program of orderly marketing that will assure adequate supplies without undue enhancement of prices or the accumulation of any undue surplus of agricultural products.

§ 7505. Number and qualifications of incorporators.

Five or more individuals of full age engaging in agriculture or two or more cooperative agricultural associations may incorporate an association. If an association is incorporated by individuals, at least three of the individuals shall be residents of this Commonwealth. If an association is incorporated by cooperative agricultural associations, at least one of the associations shall be a domestic association.

§ 7506. Purposes.

An association may be incorporated under this chapter for the purpose of engaging in any cooperative activity for producers of agricultural products in connection with:

(1) Producing, assembling, marketing, buying, selling, bargaining or contracting for agricultural products, or harvesting, preserving, drying, processing, manufacturing, blending, canning, packing, ginning, grading, storing, warehousing, handling, transporting, shipping or utilizing such products, or manufacturing or marketing the by-products thereof.

(2) Manufacturing, processing, storing, transporting, delivering, handling, buying for or furnishing supplies to its members and patrons.

(3) Performing or furnishing business, educational, recreational or other services, including the services of labor, buildings, machinery, equipment, trucks, trailers and tankers, or any other services connected with the purposes set forth in paragraphs (1) and (2) on a cooperative basis.

(4) Financing any of the activities set forth in paragraphs (1) through (3).

§ 7507. Articles of incorporation.

Articles of incorporation of an association incorporated under this chapter shall comply with the applicable provisions of this part except that, if organized without capital stock, the articles shall state whether the property rights and interests of each member are equal or unequal and, if unequal, the priorities of those rights and interests.

SUBCHAPTER B  
POWERS, DUTIES AND SAFEGUARDS

Sec.

- 7521. Special powers and limitations.
- 7522. Records of salary or other payments.
- 7523. Members.
- 7524. Issuance of shares.
- 7525. Sale, transfer or redemption of shares.
- 7526. Termination of membership.
- 7527. Voting by proxy or mail.
- 7528. Meetings.
- 7529. Fundamental changes.
- 7530. Bylaws.
- 7531. Directors.
- 7532. Removal of directors.
- 7533. Officers.
- 7534. Marketing arrangements.
- 7535. Patronage distributions.
- 7536. Audit of operations.
- 7537. Contract assignments to association.
- 7538. Exemption from tax on capital stock and indebtedness.

§ 7521. Special powers and limitations.

(a) General rule.—Each association shall have power (in addition to or limitation of the powers conferred by section 1502 (relating to general powers) or 5502 (relating to general powers)):

(1) To act as agent, broker or attorney-in-fact for its members and patrons and for any subsidiary or affiliated person.

(2) To hold chapter for its members and patrons and for subsidiary and affiliated persons to property handled or managed by the association on their behalf.

(3) In furtherance of association purposes, to make loans or advances to its members and patrons or to subsidiary and affiliated persons or their members.

(4) To establish and accumulate reserves and surplus to capital and such other funds as may be authorized by the articles of association or the bylaws.

(5) To issue membership certificates and to foster membership in the association and to solicit patrons by advertising or by educational or other lawful means.

(6) To issue and to sell common and preferred stock.

(7) To own shares of the capital stock of, to hold membership in and to hold bonds or other obligations of other persons engaged in any related activity or engaged in producing, manufacturing, warehousing or marketing any of the products handled by the association or engaged in financing its activities or those of its members.

(8) To deal in products of and handle machinery, equipment, supplies and perform services for nonmembers to an amount not greater in annual value than such as are dealt in, handled or performed for or on behalf of its members.

(b) Enumeration unnecessary.—It shall not be necessary to set forth in the articles of the association the powers enumerated in this chapter.

§ 7522. Records of salary or other payments.

Every association shall keep a record of all salaries, per diem payments or other remuneration paid to each officer and director by the association in addition to remuneration received for agricultural commodities marketed through the association.

§ 7523. Members.

An association shall admit to membership only persons who are engaging in agriculture, including both tenants and landlords receiving a share of the crop, and cooperative agricultural associations of such producers who agree to patronize the association in accordance with the uniform terms prescribed by it, and only such persons shall be regarded as eligible members of an association. The bylaws may prescribe additional qualifications for membership but shall not enlarge the class eligible for membership specified in this section.

§ 7524. Issuance of shares.

(a) General rule.—Every association without capital stock shall issue a certificate of membership to each member. Every association with capital stock shall issue a certificate of common shares to each member certifying the number of shares of stock held by him. An association shall issue common shares or a membership certificate only to persons eligible for membership upon such terms and conditions as shall be provided in the bylaws. Fractional shares may be issued.

(b) Voting rights.—Each eligible member shall be entitled to only one vote on each question that may be presented at any meeting of the members regardless of the number of shares or amount of membership capital owned by him.

(c) Preferred stock.—An association may issue preferred shares to any person upon such terms and conditions as shall be provided in the bylaws. The preferred shares shall carry no voting rights other than as provided by section 7529(a)(3) (relating to fundamental changes).

(d) Consideration.—No association shall issue a certificate of membership, and no certificate for common shares shall be issued until fully paid for, but promissory notes may be accepted by the association as full or partial payment. The association shall hold the membership certificate or shares as security for the payment of the note, but such retention as security shall not affect the right of the member to vote and hold office.

(e) Evidence of equity in assets.—The association may, from time to time, issue to any patron a certificate or other evidence of the equity of the patron in any fund, capital investment or other asset of the association. The certificate or other evidence of equity may bear interest at a rate not in excess of two points under the average treasury bill rate for the 12 months preceding

the date on which the payment is made and may be transferred only to the association or to such other person as may be approved by the association.

(f) Dividends.—Dividends may be paid on any shares and dividends on preferred shares may be cumulative if so provided in the articles. An association shall have a lien on all of its issued shares and dividends declared or accrued thereon for all indebtedness of the holders thereof to the association if provision therefor is stated on the face of the share certificate.

§ 7525. Sale, transfer or redemption of shares.

(a) General rule.—The common shares of an association may be transferred only with the consent of the association and on the books of the association and then only to persons eligible to own shares in the association. No purported assignment or transfer of the shares shall pass to any ineligible person any right or privilege on account of the shares or any vote or voice in the management or affairs of the association.

(b) Redemption or conversion.—In the event a holder of common shares has done no business with an association for a period of 12 months or in the event the board of directors of an association finds that any of the common shares has come into the hands of any person who is not eligible for membership or that the holder thereof has ceased to be an eligible member, the holder shall have no rights or privileges on account of the shares or vote or voice in the management or the affairs of the association (other than the right to participate in accordance with law in case of dissolution and to receive the book or par value of the shares, whichever is less, in the event of its sale or transfer as provided in this subsection), and the association shall have the right at its option:

- (1) to redeem the shares at their book or par value, whichever is less;
- (2) to require the transfer of any such shares at such book or par value, whichever is less, to any person eligible to hold the shares; or
- (3) to require the holder of any such shares to convert the shares into preferred shares of equal value.

In exercising its right to redeem or to require the transfer or conversion of shares, if the holder fails to deliver the certificate evidencing the shares for cancellation or transfer, an association may cancel the certificate on its books and issue a new certificate for common or preferred shares, as the case may be, to the party entitled thereto.

(c) Preferred shares.—The preferred shares of an association may be transferred only on the books of the association, and the bylaws may provide that the association shall have the option, at any time, to redeem the preferred shares at par value, plus declared or accrued dividends.

(d) Notice on certificates.—Any restriction or option which an association places upon the transfer or sale of any of its outstanding shares and any association option retained thereon, shall be printed on each share certificate.

(e) Force majeure.—A member shall not lose his membership in the association under this section by his failure to do business with it if the failure is due to an act of God unless the period of time involved is at least 24 months.



**§ 7526. Termination of membership.**

(a) General rule.—Under the terms and conditions prescribed in the bylaws, a member of an association without capital stock shall lose his membership and his right to vote if he ceases to belong to the class eligible for membership or has done no business with an association for a period of 12 months.

(b) Valuation of and payment for membership.—After a member has notified an association without capital stock of his withdrawal or after the adoption of a resolution by the board terminating his membership, the board shall appraise the value in money of his membership interest in the association and shall determine and fix the manner in which the association shall pay him the value of his interest unless the member, with the consent of the association, transfers his certificate of membership. Certificates of membership in an association without capital stock shall not be transferred without the consent of the association.

(c) Force majeure.—A member shall not lose his membership in the association under this section by his failure to do business with it if the failure is due to an act of God unless the period of time involved is at least 24 months.

**§ 7527. Voting by proxy or mail.**

(a) General rule.—Unless otherwise provided in the bylaws, no member may vote by proxy or by mail. No unrevoked proxy shall be valid more than 11 months from the date of its execution. If voting by mail is permitted, absent members may, under rules prescribed by the bylaws, be permitted to vote on specific questions by written ballot prepared by the association and sent by mail to or deposited with the secretary or other designated officer of the association.

(b) Action on marketing programs.—Except for day-to-day operating decisions relating to existing programs, no association shall vote for its members on any new programs or substantially modified proposals other than those regulated by Federal or State agencies affecting existing marketing or marketing development programs or amendments thereto unless it has either first obtained approval of the delegates or conducted a mail poll of its membership, and in such later event apprised the members of their rights to cast a vote and method of voting under the program and notified its membership of the results and its intentions at least five days prior to casting its vote. If proxy voting is allowed by the bylaws of the association, the proxy shall be valid only for the particular date and the specific issue for which the vote is called.

**§ 7528. Meetings.**

There shall be at least one meeting of members or delegates each year. Annual and special membership or delegate meetings shall be governed by the bylaws.

**§ 7529. Fundamental changes.**

(a) General rule.—An association, by action of its members or delegates, may amend its articles of incorporation in the manner provided by the applicable provisions of this part except that:

(1) No amendment shall be adopted without the affirmative vote of two-thirds of the members or delegates voting thereon.

(2) No amendment affecting the priority or preferential rights of any outstanding stock shall be adopted without the affirmative vote of two-thirds of the holders of the outstanding stock affected.

(3) Any association not having capital stock may convert into an association with capital stock by amending its articles to set forth a description of the shares of each class which are to be issued and a statement of the voting rights, preferences, limitations and relative rights granted to or imposed upon the shares of each class but only if the conversion is proposed by three-fourths of the board of directors.

(b) Procedure.—Written notice shall, not less than 15 days before the meeting of members or delegates called for the purpose of considering the proposed amendment or any other fundamental change, be given to each member or shareholder of record. A notice of an amendment under subsection (a)(3) shall set forth, in addition to the information otherwise required by the appropriate provisions of this part, a complete description of the shares proposed to be issued upon the conversion and the manner of carrying the conversion into effect.

(c) Post-approval report.—Whenever an amendment of the articles of an association is approved, the association shall notify each member within 30 days after the filing of articles of amendment by sending to each member a copy of the filed amendment and, in the case of a conversion, a complete description of the shares issued by the association.

§ 7530. Bylaws.

(a) General rule.—The bylaws may provide for the following matters:

(1) The time, place and manner of calling and conducting meetings of the members or delegates and the number of members or delegates (which may be less than a majority) that shall constitute a quorum.

(2) The manner of voting and the conditions upon which members or delegates may vote at general and special meetings.

(3) Subject to any provision thereon in the articles of association and in this chapter, the number, qualifications, eligibility requirements, manner of nomination, duties and terms of office of directors and officers, the time of their election and mode and manner of giving notice thereof.

(4) The time, place and manner for calling and holding meetings of the directors and any executive committee and the number that shall constitute a quorum.

(5) Rules consistent with law and the articles of association for the management of the association, the establishment of any election districts, the making of contracts, the issuance, redemption and transfer of shares, the relative rights, duties, interests and preferences of members and shareholders and the mode, manner and effect of expulsion of a member.

(6) Any other provisions deemed necessary or proper to carry out the purposes of the association.

(7) Penalties for violations of the bylaws.

(b) Procedure.—Bylaws authorized to be made by the board of directors may be amended or repealed and new bylaws may be adopted by the members or delegates. Delegates may prescribe that any bylaw made by them shall not be amended or repealed by the directors, and members may provide that any bylaw made by them shall not be amended or repealed by either the directors or the delegates. The association shall notify each member of a proposed change in the bylaws by sending to each member, at least 15 days prior to any vote on the proposed change, a copy of the proposed bylaw along with the time, date, place and manner of voting for the proposed changes. Members may amend or repeal bylaws adopted by the directors or the delegates by filing with the secretary of the association a petition signed by 25% of the voting membership and setting forth the text of the proposed change. The secretary shall call a special meeting or special vote of the association within 30 days of the receipt of the petition. When a special meeting is called, at least 10% of the voting membership shall be present to change the bylaws. Whenever a proposed bylaw change is approved, the association shall mail each member a copy of the approved bylaw within 30 days of the approval.

§ 7531. Directors.

(a) General rule.—The business and affairs of the association shall be managed under the direction of a board of not less than five directors who shall be natural persons of full age. All directors shall be members. The first directors shall serve until the first annual meeting of the association at which time their successors shall be elected by the members of the association. Thereafter, a director shall hold office for a term of not less than one year nor more than three years and until his successor has been elected and qualified. Every election for a director shall be by secret ballot. A director may succeed himself.

(b) Election by districts.—The bylaws may provide that the territory in which the association has members shall be divided into districts and that the directors shall be elected according to such districts, either directly or by district delegates elected by the members in that district. In such case, the bylaws shall specify or the board of directors shall determine the number of directors to be elected by each district and the manner and method of dividing the directors and of districting and redistricting of the territory in which the association has members. The board of directors may use such standards as are reasonable for assigning directors and districting and redistricting the territory in which the association has members. The bylaws or the board of directors may provide for dividing districts into locals and for the election of district delegates at local meetings of members. The bylaws shall prescribe the procedures by which districts shall elect directors. The board of directors shall hear and decide any controversy arising out of a district election and its decisions shall be incontestable except for fraud. In any case in which the election of directors is by districts, the board shall fill a vacancy with a person who resides in or is a member of a local in the district in which the vacancy exists.

(c) **Classified board.**—If the bylaws so provide, the directors of an association may be classified in respect to the time for which they severally hold office. In such case, each class shall be as nearly equal in number as possible, the term of office of at least one class shall expire in each year, and the members of a class shall not be elected for a shorter period than one year or for a longer period than three years. If, at any meeting, directors of more than one class are to be elected, each class of directors to be elected shall be elected in a separate election.

(d) **Educational program.**—The Department of Agriculture, in cooperation with the College of Agriculture of The Pennsylvania State University, shall develop and implement an educational program relating to the powers, duties, functions and responsibilities of directors of associations. The Secretary of Agriculture shall appoint an advisory council consisting of nine individuals, including members and directors of associations, two association managers and other interested individuals, who shall advise the department on the development of the educational program. Two members of the advisory council shall be managers of associations. In addition, the department shall furnish to each association director, free of charge, when first elected as a director, an updated copy of this chapter and annually thereafter any amendments or replacements thereof.

**§ 7532. Removal of directors.**

A director may be removed from office by the affirmative vote of not less than a majority of the members present and voting at any regular or special meeting called for that purpose or, where the bylaws provide for the election of directors by districts, by the affirmative vote of not less than a majority of the members or delegates residing in or representing the district from which he was elected. The bylaws shall provide for the filing of charges, the giving of notice thereof, an opportunity to be heard and the procedures under which a director may be removed.

**§ 7533. Officers.**

The board shall elect a president, a secretary and a treasurer and may elect one or more vice presidents and any other officers as may be authorized in the bylaws. The president and at least one of the vice presidents must be members. Any two of the offices of vice president, secretary and treasurer may be combined in one person.

**§ 7534. Marketing arrangements.**

(a) **General rule.**—An association and its members may make and execute contracts requiring the members to obtain all or any part of specific services from the association or to sell or deliver all or any part of their specified agricultural products to or through the association or any facilities to be created by the association. The contract may provide that the association may sell or resell the products sold or delivered by its members, with or without taking chapter thereto, and pay over to its members the resale price, after deducting all necessary overhead costs, expenses, valuation reserves, interest, dividends on common and preferred shares and such deductions for capital and other purposes as may be specified in the contract or bylaws of an association. Each marketing or service contract shall contain a provision

which shall specify a reasonable period in each year during which any contracting member of an association, upon giving notice as prescribed in the contract, may terminate the contract.

(b) Enforcement.—The bylaws or the marketing or service contract may provide:

(1) For applying patronage refunds or savings allocated to any member or other patron toward the payment for liquidated damages specified in the contract to be paid to an association by the member or other patron upon the breach by him of any provision of the marketing or service contract.

(2) That the member will pay all costs, premiums for bonds, expenses and fees in case any action is brought upon the contract by the association. Any such provision shall be valid and enforceable in the courts of this Commonwealth.

(3) That the association shall have the option to redeem the voting shares at book value or par value, whichever is lower, plus declared dividends, or the membership certificate, whenever any contract between the association and a member has been canceled in accordance with the terms or conditions of the contract or by reason of breach of the contract by the member.

(c) Injunction.—In the event of any such breach or threatened breach of the marketing contract by a member, the association shall be entitled to an injunction to prevent further breach of the contract and to specific performance thereof. Pending the adjudication of the action, and upon filing a verified complaint showing the breach or threatened breach and upon filing a sufficient bond, the association shall be entitled to a temporary restraining order and preliminary injunction against the member. The right to an injunction shall be in addition to the remedy provided in subsection (b).

(d) Inducing breach; spreading false reports.—Any person who knowingly induces any member of an association to breach his marketing contract with the association shall be liable to the association for the full amount of damages sustained by it by reason of the breach, and any person who maliciously and knowingly spreads false reports about the finances or management of the association shall be liable to the association in an action for the actual damage which it may sustain by reason of the false reports and punitive damages. The association shall be entitled to an injunction against any such person to prevent further injury to the association. In any action brought by an association pursuant to this subsection, the association shall be entitled to, in addition to any other recovery or remedy, reasonable attorney fees involved in such matter.

**§ 7535. Patronage distributions.**

(a) General rule.—The net proceeds or savings of an association shall be apportioned, distributed and paid periodically on the basis of patronage to those persons entitled to receive them, at such times and in such manner as the bylaws shall provide. The bylaws may provide that the net proceeds or savings may be restricted to members or may be made at the same or a different rate for member and nonmember patrons. The bylaws may contain any

reasonable provisions for the apportionment and charging of net losses except that no member shall thereby become liable for the debts of the association beyond any money or other property delivered by the member to the association. The bylaws may provide that any distribution to a nonmember eligible for membership may be credited to the nonmember until the amount thereof equals the value of a membership certificate or a common share of an association.

(b) Method of disbursement.—The apportionment, distribution and payment of net proceeds or savings required by subsection (a) may be in cash, credits, capital shares, certificates of indebtedness, revolving fund certificates, letters of advice or other securities or certificates issued by an association or by any affiliated domestic or foreign association. Apportionment and distribution of its net proceeds or savings or losses may be separately determined for, and be based upon the patronage of, single or multiple pools or particular departments of an association, or as to particular commodities, supplies or services, or such apportionment and distribution may be based upon classification of patronage according to the type thereof.

(c) Minimum participation.—An association may provide in its bylaws the minimum amount of any single annual patronage transaction which shall be taken into account for the purpose of participation in allocation and distribution of net proceeds or savings or net losses under this section.

(d) Method of accounting.—For the purposes of this section, net proceeds or savings or net losses shall be computed in accordance with generally accepted accounting principles applicable to cooperative associations, and after deducting from gross proceeds or savings all costs and expenses of operation and any dividends paid upon capital stock and interest paid upon certificates or other evidence of equity in any fund, capital investment or other assets of an association.

#### § 7536. Audit of operations.

(a) General rule.—At the close of each fiscal year, a complete certified audit of the operations of the association shall be made by a qualified certified public accountant or by a qualified public accountant, employed by the board of directors, the written report of whom shall include the balance sheet, operating statement, commissions, salaries and other remunerations of managers and officers and other proper information and shall be submitted to the members at the next regular meeting. Within six months after the expiration of the fiscal year for which made, the secretary of the association shall file a copy of the certified audit in the Department of Agriculture upon a form prescribed by the department. The secretary of the association shall also include in the yearly audit report to the department a list of the current officers and directors and their addresses.

(b) Exceptions.—The annual audit of an association with annual gross sales of \$100,000 or less may be performed by an audit committee of three or more members of the association appointed by the board, at least one of whom shall be a member of the board of directors. The members of the committee need not be certified public accountants or public accountants.

(c) **Enforcement.**—Any association which fails, within 120 days from the close of the fiscal year, to file with the department the certified audit required by subsection (a) shall be notified by certified mail by the department that the certified audit must be filed within 60 days from the date of mailing of the notice and that, upon failure to file the certified audit within the time so limited, the department will file in the Department of State a statement of dissolution under this subsection. If the certified audit is not filed in the department within such 60-day period, the department shall file in the Department of State, with respect to each such defaulting association, a statement of dissolution which shall identify the association. Upon the filing of the statement, the articles of the association shall be deemed forfeited for failure to comply with the provisions of this section. However, the forfeiture shall not prejudice the rights of creditors and members in and to any property or assets of or belonging to the association. The department shall annually, on or before April 1 of each year, furnish each existing association and make public a listing of the status of existing associations. Any association which has so automatically forfeited its articles shall be reinstated as an association under this chapter if the unfiled certified audit is submitted to the department within 90 days after such automatic forfeiture or within any extension thereof granted by the department, which shall thereupon file in the Department of State with respect to the association a notice of withdrawal of statement of dissolution stating that the association has complied with the provisions of this subsection. In such event, no statement of revival or new articles of incorporation need be filed in the Department of State, and the association shall resume its status as a subsisting corporation. The department shall review such yearly certified audits and issue such reports and recommendations to each member of the board of directors of the association as the department deems necessary.

(d) **Confidentiality.**—No person shall, without the consent or authorization of the association, except for official purposes or in obedience to judicial process, make or permit any disclosure whereby any information contained in a certified audit may be identified as having been furnished by the association. No person shall knowingly exercise or attempt to exercise any powers, privileges or franchises for an association, given by this chapter, while the articles of the association are forfeit unless that person is, and discloses that he is, acting to reinstate the good standing of the association under this chapter or is acting to wind up the affairs of the association. A person violating the prohibitions set forth in this subsection commits a misdemeanor of the third degree.

(e) **Withdrawal.**—A certified audit shall not be withdrawn without the approval of the board of directors.

§ 7537. Contract assignments to association.

If any contract authorized by a cooperative contains an assignment to the association of any part or all of funds due or to become due the member during the life of the contract for any product produced or to be produced by him or for any services performed or to be performed in producing any product, any person who accepts or receives the product from the member is

bound by the assignment after receiving written notice from the association and the member of the amount and duration of the assignment. However, as to any seasonal crop, if no funds are paid or become payable by any person under such an assignment for a period of two consecutive years during the life of the contract, thereafter the assignment shall not be binding upon any person who receives or accepts the product from the member until the assignment is reaffirmed by the member in writing and written notice thereof is given by the association or the member. Any such reaffirmation shall continue to be effective during the life of the contract until another lapse of two consecutive years occurs.

§ 7538. Exemption from tax on capital stock and indebtedness.

No State or local tax shall be levied or placed upon the capital stock of an association or upon any scrip, bonds, certificates or other evidences of indebtedness issued by such association. The association shall not be required to file in the Department of Revenue, or with any other State or local official of this Commonwealth, the reports relative to such taxes as are or may be required of corporations not exempt from the payment of such taxes.

§ 7701. *Short title of chapter.*

*This chapter shall be known and may be cited as the Workers' Cooperative Corporation Law of 1988.*

§ [7701] 7702. Definitions.

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§ [7702] 7703. Corporations.

(a) Members and purpose.—Corporations, productive and distributive, may be incorporated under this chapter, upon compliance with its requirements, by five or more farmers, mechanics, laborers or other persons who have incorporated themselves together by written articles under section [7703] 7704 (relating to articles of incorporation) for the purpose of carrying on agricultural, horticultural, mining, quarrying, building, mechanical, manufacturing or commercial business; for the purpose of manufacturing, cultivating, raising, trading or dealing in goods, wares, merchandise, chattels, grains, vegetables, roots, fruits and other produce or animals; or for the purpose of buying, selling, holding, leasing or improving lands, tenements or buildings.

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§ [7703] 7704. Articles of incorporation.

\* \* \*

(b) [Approval] Filing of articles.—The articles of incorporation[, signed by each of the incorporators, together with any filing fee required to be paid,] shall be [delivered to] filed in the department. [If the department finds that the articles comply with section 7704 (relating to content of article) and that all required fees have been paid, it shall approve the articles of incorporation; and a copy of the articles shall be recorded in the bureau.] Upon the [approval] filing of the articles of incorporation, the corporation's existence begins. *See section 134 (relating to docketing statement).*



(c) Evidence of incorporation.—The articles of incorporation as [approved] *filed in the department* are conclusive evidence of the fact that the corporation has been [organized] *incorporated*; but proceedings may be instituted by the Commonwealth to dissolve, wind up and terminate a corporation which should not have been incorporated or which has been incorporated by means of fraud or misrepresentation or without substantial good faith compliance with the conditions prescribed by this chapter as precedent to incorporation.

**[§ 7704. Content of articles.]**

(d) *Content of articles.*—The articles of incorporation shall be signed by the persons originally associating themselves together and shall state distinctly:

(1) The name by which the corporation shall be known, which may not be the same as, or confusingly similar to, the name of an association or corporation existing under the law of the Commonwealth, the name of a foreign or alien association or corporation authorized to transact business in this Commonwealth, or a corporate name reserved or registered as provided by law.

(2) [The place in this Commonwealth where the principal office is to be located.] *Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its initial registered office in this Commonwealth.*

(3) A brief statement:

(i) of the purpose or purposes for which the corporation is incorporated, which may consist of a statement that the corporation has unlimited powers to engage in any lawful act concerning any business for which corporations may be incorporated under this chapter; and

(ii) that the corporation is incorporated under this [act] *chapter*.

(4) A description of the capital stock of each class which is to be issued; a statement of the preferences, qualifications, limitations, restrictions and special or relative rights granted to or imposed upon the shares of each class of capital stock; the total authorized capital stock; the number of shares into which the capital stock is divided; and the par value of each share of capital stock.

(5) The amount of capital that will be actually paid in before commencing business.

(6) The terms on which individuals may become members.

(7) The number of directors, which may not be less than five, constituting the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting of the members or until their successors are elected and take office.

(8) Other matters as may be deemed proper and necessary.

(9) The term of its existence, which shall be either perpetual or for a fixed term of years.

(10) The name and post office address of each of the incorporators; a statement of the number of shares subscribed to by each, which must be at least one; and the class of shares to which each subscribes.

## § 7720. Amendments of articles.

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(b) Delivery and [recordation] *filing*.—Amendments to the articles of incorporation[, signed by two authorized officers of the corporation, together with a required filing fee,] shall be [delivered to] *filed in* the department. [If the department finds that the amendments to the articles comply with the law and that all the required fees have been paid, it shall approve the amendments to the articles of incorporation, and a copy of the amended articles shall be recorded in the bureau.] Upon [approval] *the filing* of amendments to the articles, they shall become effective. *See section 134 (relating to docketing statement).*

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## § 7721. Bylaws.

\* \* \*

(b) Content.—The bylaws may provide for the following matters:

(1) The time, place and manner of calling and conducting meetings of the members and the number of members that constitute a quorum.

(2) The manner of voting and the conditions upon which members may vote at general or special meetings.

(3) Subject to provision in the articles of incorporation and in this [act] *chapter*, the number, qualifications, eligibility requirements, manner of nomination, duties and terms of office of directors and officers; the time of their election; and mode and manner of giving notice of election.

(4) The time, place and manner for calling and holding meetings of the directors and executive committees and the number that constitutes a quorum.

(5) Rules consistent with law and the articles of incorporation for the management of the corporation; the making of contracts; the issuance, redemption and transfer of stock; the relative rights, duties, interests and preferences of members and stockholders; and the mode, manner and effect of termination of a member.

(6) Any other provisions deemed necessary or proper to carry out the purposes of the corporation.

(7) Penalties for violations of the bylaws.

## § 7726. Applicability.

(a) General rule.—This chapter shall apply to domestic corporations incorporated under this chapter [on or after the effective date of this chapter].

\* \* \*

## § 8102. Interchangeability of partnership and corporate forms of organization.

\* \* \*

(b) Exceptions.—Subsection (a) shall not:

(1) Affect any law relating to the taxation of partnerships or corporations.

(2) Apply to a banking institution, *credit union*, insurance corporation or savings association, unless the laws relating thereto expressly contemplate the conduct of the regulated business in partnership form.

(3) Permit a partnership to provide full limited liability for all of the investors therein or otherwise fail to preserve the intrinsic differences between the partnership and corporate forms.

**§ 8103. Continuation of certain limited partnerships.**

(a) *Scope.*—*This section shall apply to any domestic limited partnership that elects to be governed by this section. The election or a termination of the election may be effected in the manner provided in section 8701(a) (relating to application of chapter).*

(b) *General rule.*—*The action under section 8571(a)(4) (relating to non-judicial dissolution) to elect to continue the business of a limited partnership to which this section applies or to appoint one or more replacement general partners of the partnership, or both, may be effected by less than all, but not less than a majority in interest, of the partners.*

**§ 8503. Definitions.**

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

\* \* \*

“Court.” Subject to any inconsistent general rule prescribed by the Supreme Court of Pennsylvania:

(1) the court of common pleas of the judicial district embracing the county where the registered office of the limited partnership is or is to be located; or

(2) where a limited partnership *results from a merger, consolidation or other transaction without establishing a registered office in this Commonwealth* or withdraws as a foreign limited partnership, the court of common pleas in which venue would have been laid immediately prior to the *transaction* or withdrawal.

\* \* \*

“Partnership agreement.” Any agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business. A written partnership agreement:

(1) [may] *May* provide that a person shall be admitted as a limited partner, or shall become an assignee of a partnership interest or other rights or powers of a limited partner to the extent assigned, and shall become bound by the partnership agreement:

(i) if such person (or a representative authorized by such person orally, in writing or by other action such as payment for a partnership interest) executes the partnership agreement or any other writing evidencing the intent of such person to become a limited partner or assignee; or

(ii) without such execution, if such person (or a representative authorized by such person orally, in writing or by other action such as payment for a partnership interest) complies with the conditions for becoming a limited partner or assignee as set forth in the partnership agreement or any other writing and requests (orally, in writing or by other action such as payment for a partnership interest) that the records of the limited partnership reflect such admission or assignment[; and].

(2) **[shall] Shall** not be unenforceable by reason of its not having been signed by a person being admitted as a limited partner or becoming an assignee as provided in paragraph (1) or by reason of its having been signed by a representative as provided in section 8514(b) (relating to attorney-in-fact).

(3) *May provide that, whenever a provision of this chapter requires the vote or consent of a specified number or percentage of partners or of a class of partners for the taking of any action, a higher number or percentage of votes or consents shall be required for the action. Except as otherwise provided in the partnership agreement, whenever the partnership agreement requires for the taking of any action by the partners or a class of partners a specific number or percentage of votes or consents, the provision of the partnership agreement setting forth that requirement shall not be amended or repealed by any lesser number or percentage of votes or consents of the partners or the class of partners.*

\* \* \*

§ 8511. Certificate of limited partnership.

(a) General rule.—In order to form a limited partnership, a certificate of limited partnership must be executed and filed in the Department of State. The certificate shall set forth:

\* \* \*

(4) *If a partner's interest in the limited partnership is to be evidenced by a certificate of partnership interest, a statement to that effect.*

(5) Any other matters the partners determine to include therein. A provision included in the certificate of limited partnership pursuant to this paragraph shall be deemed to be a provision of the partnership agreement for purposes of any provision of this chapter that refers to a rule as set forth in the partnership agreement.

\* \* \*

(c) Duties of recorders of deeds.—Each recorder of deeds shall continue to keep open for public inspection the record of limited partnership certificates recorded under the statutes supplied by this chapter and by prior law *the custody of which has not been transferred to the department pursuant to section 140 (relating to custody and management of orphan corporate and business records).*

(d) *Transitional provision.—A limited partnership formed under prior law shall not be required to set forth in its certificate of limited partnership a registered office or the business address of each general partner until such time as it first amends its certificate of limited partnership under this chapter.*

[(d)](e) Cross references.—\* \* \*

§ 8512. Amendment of certificate.

\* \* \*

(b) Events requiring amendment.—An amendment to a certificate of limited partnership shall be filed upon the occurrence of any of the following events:

- (1) A change in the name of the limited partnership.
- (2) The admission of a new general partner.
- (3) The withdrawal of a general partner.

[(4) The continuation of the business under section 8571 (relating to nonjudicial dissolution) after an event of withdrawal of a general partner.]

\* \* \*

*(f) Amendment of voting provisions.—Except as otherwise provided in the certificate of limited partnership, whenever the certificate requires for the taking of any action by the partners or a class of partners a specific number or percentage of votes or consents, the provision of the certificate setting forth that requirement shall not be amended or repealed by any lesser number or percentage of votes or consents of the partners or of the class of partners.*

[(f)] (g) Cross references.—\* \* \*

§ 8516. Liability for false statement in certificate.

*(a) General rule.—If any certificate of limited partnership or certificate of amendment or cancellation contains a materially false statement or fails to state a material fact required to be stated therein, one who suffers loss by reasonable reliance on the statement or failure to state a material fact may recover damages for the loss from:*

(1) any person who executes the certificate, or causes another to execute it on his behalf, and knew, and any general partner who knew or should have known, the [statement] *certificate* to be [false] *inaccurate* in any material respect at the time the certificate was executed; and

(2) any general partner who thereafter knows or should have known that any arrangement or other fact described in the certificate has changed, making the [statement] *certificate* inaccurate in any material respect within a sufficient time before the [statement] *certificate* was relied upon reasonably to have enabled that general partner to cancel or amend the certificate, or to file an application for its cancellation or amendment under section 8515 (relating to execution by judicial act).

*(b) Cross reference.—See section 8511(d) (relating to transitional provision).*

§ 8545. Merger and consolidation of limited partnerships authorized.

\* \* \*

*(c) Business trusts and other associations.—The provisions of this subchapter applicable to domestic and foreign limited partnerships shall also be applicable to a merger or consolidation with or into a domestic or foreign corporation, business trust, general partnership or other association. The surviving or resulting entity in such a merger or consolidation may be a corporation, partnership, *business trust* or other association. Except as otherwise provided by law in this or any other state, the powers and duties vested in and imposed upon the general partners and limited partners in this subchapter shall be exercised and performed by the group of persons under the direction of whom the business and affairs of the corporation, *business trust* or other association are managed and the holders or owners of shares or other interests in the *corporation, business trust or other* association, respec-*

tively, irrespective of the names by which the managing group and the holders or owners of shares or other interests are designated. *The units into which the shares or other interests in the corporation, business trust or other association are divided shall be deemed to be partnership interests for the purposes of applying the provisions of this subchapter to a merger or consolidation involving the corporation, business trust or other association.*

§ 8558. Liability upon return of contribution.

\* \* \*

(b) Unlawful distributions.—If a partner has received the return of any part of his contribution in violation of the partnership agreement or this chapter, he is liable to the limited partnership for a period of ~~four~~ two years thereafter for the amount of the contribution wrongfully returned.

\* \* \*

§ 8562. Assignment of partnership interest.

\* \* \*

(b) Certificate of partnership interest.—The **[partnership agreement]** *certificate of limited partnership* may provide that a partner's interest in a limited partnership may be evidenced by a certificate of partnership interest issued by the limited partnership and may also provide for the assignment or transfer of any partnership interest represented by such a certificate and make other provisions with respect to such certificates. *See 13 Pa.C.S. § 8102 (relating to definitions and index of definitions).*

\* \* \*

§ 8571. Nonjudicial dissolution.

(a) General rule.—A limited partnership is dissolved and its affairs shall be wound up upon the happening of the first to occur of the following:

\* \* \*

(4) An event of withdrawal of a general partner unless at the time there is at least one other general partner and the written provisions of the partnership agreement permit the business of the limited partnership to be carried on by the remaining general partner and that partner does so. The limited partnership is not dissolved and is not required to be wound up by reason of any event of withdrawal if, within 180 days after the withdrawal, all partners **[(except as provided in subsection (c))]** agree in writing to continue the business of the limited partnership or to the appointment of one or more replacement general partners.

(5) Entry of an order of judicial dissolution under section 8572 (relating to judicial dissolution).

\* \* \*

(c) **[Modification by agreement.]**—If the partnership agreement so provides in writing, the action under subsection (a)(4) to elect to continue the business of the limited partnership or to appoint one or more replacement general partners, or both, may be effected by less than all, but not less than a majority in interest, of the partners.

(d) **[Cross [reference] references.]**—See **[section] sections 8103 (relating to continuation of certain limited partnerships) and 8512(b)** (relating to events requiring amendment).

§ 8575. Survival of remedies and rights after dissolution.

(a) General rule.—The dissolution of a limited partnership shall not eliminate or impair any remedy available to or against the limited partnership or its partners for any right or claim existing, or liability incurred, prior to the dissolution, if an action thereon is brought on behalf of:

- (1) the limited partnership within the time otherwise limited by law; or
- (2) any other person before or within **[four] two** years after the date of the dissolution or within the time otherwise limited by law, whichever is less.

The actions may be prosecuted against and defended by the limited partnership under the name of the limited partnership.

\* \* \*

§ 8701. Scope and definition.

(a) Application of chapter.—This chapter applies to a general or limited partnership formed under the laws of this Commonwealth that elects to be governed by this chapter. Any partnership that desires to elect to be governed by this chapter, or to amend or terminate the election, shall file in the Department of State a statement of election, amendment or termination, as the case may be, which shall be signed by a general partner and shall set forth:

- (1) The name of the partnership.
- (2) The location of the principal place of business.
- (3) The name of each **[member] general partner** of the partnership as of the date of the statement.
- (4) A statement that the partnership elects to be governed by this chapter or that the election to be governed by this chapter shall be amended or terminated, as the case may be.
- (5) If the election is to be made or terminated, a statement that the election or termination has been authorized by at least a majority in interest of the partners.

Upon the filing of the statement of election, amendment or termination in the department, the election to be governed by this chapter shall be effective, amended or terminated, as the case may be.

\* \* \*

§ 9102. Funeral and similar benefits.

Members of unincorporated associations paying **[periodical] periodic** or funeral benefits shall not be individually liable for the payment of **[periodical] periodic** or funeral benefits or other similar liabilities of the association. The liabilities shall be payable only out of the treasury of the association.

§ 9501. Application and effect of chapter.

(a) General rule.—

(1) **[This] Unless the context clearly indicates otherwise, this** chapter shall apply to and the words “business trust” in this chapter shall mean **[a business] an association organized as a** trust:

- [(1)] (i)** Hereafter established under the laws of this Commonwealth.

**[(2)] (ii)** Whose deed of trust or other organic document states, by amendment or otherwise, that the trust exists subject to the provisions of this chapter, in the case of a business trust heretofore established under the laws of this Commonwealth or heretofore or hereafter established under the laws of any other jurisdiction.

**(2) The words "business trust" in this chapter shall not include:**

**(i) A trust contemplated by section 1768 (relating to voting trusts and other agreements among shareholders) or any similar provision of law.**

**(ii) A trust for creditors.**

**(iii) A mortgage, deed of trust or other indenture or similar instrument or agreement under which debt securities are outstanding or to be issued.**

**(iv) A trust for the benefit of one or more investors with respect to a lease of real or personal property, unless the instrument creating the trust is filed under this chapter.**

\* \* \*

**§ 9502. Creation of business trusts.**

A business trust may be created in real or personal property, or both, with power in the trustee or a majority of the trustees:

(1) To receive title to, hold, buy, sell, exchange, transfer and convey real and personal property for the use of the business trust.

(2) To take, receive, invest or disburse the receipts, earnings, rents, profits or returns from the trust estate.

(3) To carry on and conduct any lawful business designated in the deed or other instrument of trust, and generally to do any lawful act in relation to such trust property that any individual owning the same absolutely might do.

**(4) To merge with another business trust or other association, to divide or to engage in any other fundamental or other transaction contemplated by the deed or other instrument of trust.**

**§ 9503. Documentation of trust.**

(a) General rule.—A business trust shall not be valid unless created by deed of trust or other written instrument subscribed by one or more individuals, associations or other entities **[and filed in the Department of State]**. ***The trustees of a business trust shall promptly cause the instrument or any amendment thereof, except an amendment solely effecting or reflecting the substitution of or other change in the trustees, to be filed in the Department of State. The failure to effect the filing shall not affect the validity of a business trust. A trustee who violates the requirements of this subsection shall be liable for a civil penalty in the amount of \$1,000 payable to the department.***

\* \* \*

(c) Amendment.—The instrument may be amended in the manner and to the extent provided therein or by the trustee or a majority of the trustees, if not otherwise provided therein. The amendment shall be evidenced by a written instrument subscribed by one or more authorized persons on behalf of the business trust. The instrument of amendment, ***if required by subsection (a)***, shall be filed in the department and:



*(1) if the original deed of trust or other instrument was filed in the department under subsection (a), shall become effective upon filing or such later date and time, if any, as may be set forth in the instrument of amendment; or*

*(2) in any other case, shall become effective as set forth in the instrument of amendment.*

(d) Duration.—The instrument creating a business trust shall specify the period of its duration, which [shall not exceed 21 years from its creation or from its last extension, whichever is later. A beneficiary of a business trust who objects to the extension of the term of existence of a business trust and who complies with the provisions of Subchapter D of Chapter 15 (relating to dissenters rights) shall be entitled to the rights and remedies therein provided. The date of the adoption of the amendment to the instrument changing the term of existence shall be deemed to be the effective date of the plan, the beneficiaries who make written demand shall be deemed to be the dissenting shareholders, and the trust shall be deemed the corporation for the purposes of that subchapter.] *may be perpetual. The rule against perpetuities or analogous principles shall not be applicable to a business trust.*

\* \* \*

§ 9505. Succession of trustees.

An instrument may provide for the succession [to any] *of title to the trust property to a successor trustee*, in case of the death, resignation, removal or incapacity of [such] *any trustee*. In the case of any such succession, the title to the trust property shall at once vest in the succeeding trustee.

§ 9506. Liability of trustees and beneficiaries.

(a) General rule.—Liability to third parties for any act, omission or obligation of a trustee of a business trust when acting in such capacity shall extend to [the whole of the trust estate or so much thereof] *so much of the trust estate* as may be necessary to discharge such liability, but personal liability shall not attach to the trustee or the beneficiaries of the trust for any such act, omission or liability. *An obligation of a trust based upon a writing may be limited to a specific fund or other identified pool or group of assets of the trust.*

(b) Standards and immunities.—[The] *Except as otherwise provided in the instrument governing the trust, the provisions of [Subchapter B of Chapter 5 (relating to indemnification and corporate directors' liability)] Subchapters B (relating to fiduciary duty) and D (relating to indemnification) of Chapter 17 shall be applicable to [trustees] representatives* of a business trust.

§ 9507. Foreign business trusts.

*A business trust organized under any laws other than those of this Commonwealth shall be subject to Subchapters B (relating to qualification) and C (relating to powers, duties and liabilities) of Chapter 41, as if it were a foreign business corporation, except that a qualified foreign business trust shall enjoy the same rights and privileges as a domestic business trust, but no more, and, except as otherwise provided by law, shall be subject to the same liabilities, restrictions, duties and penalties now in force or hereafter imposed*

*upon domestic business trusts, to the same extent as if it were a domestic business trust.*

## DIVISION II INSURANCE CORPORATIONS

### Section 201. Definition of term "insurance corporation."

As used in this division, the term "insurance corporation" means any domestic insurance company of any of the classes described in section 201 or 701(3) of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, or incorporated under the acts of April 28, 1903 (P.L.329, No.259), April 20, 1927 (P.L.317, No.190), June 24, 1939 (P.L.686, No.320), June 20, 1947 (P.L.687, No.298), June 28, 1951 (P.L.941, No.184), July 15, 1957 (P.L.929, No.401), or any similar act relating to the incorporation or reincorporation of limited life insurance companies. The term does not include any of the following:

- (1) A hospital plan corporation subject to 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations).
- (2) A professional health service corporation subject to 40 Pa.C.S. Ch. 63 (relating to professional health services plan corporations).
- (3) A fraternal benefit society subject to the act of July 29, 1977 (P.L.105, No.38), known as the Fraternal Benefit Society Code.
- (4) A health maintenance organization subject to the act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act.

### Section 202. Corporate powers.

(a) General rule.—No insurance corporation shall transact any other business other than that specified in its original or amended articles of incorporation or charter or authorized by statute regulating the business of the corporation.

(b) Ancillary activities.—With the prior approval of the Insurance Department, an insurance corporation may, independently of its insurance business and in addition to authority conferred by any other statute regulating the business of the corporation, provide services of the kinds it performs in the normal conduct of the business for which it is incorporated, including, but not limited to, consultative, administrative, investment, actuarial, loss prevention, data processing, accounting, claims and collection services. The Insurance Department shall take into account the effect of the provision of such services on the insurance business of the corporation and the risks inherent in the provision of such services by the corporation.

(c) Subsidiaries.—Subsections (a) and (b) shall not affect the power of an insurance corporation to hold, own and control subsidiaries engaged in other businesses as authorized by law.

### Section 203. Authorization to do business.

No insurance corporation incorporated after June 19, 1991, shall have power to engage in the business of insurance until it shall have received a certificate from the Insurance Department authorizing the corporation to commence business.

**Section 204. Amendment of articles.**

(a) **General rule.**—Any amendment of the articles of incorporation or charter of any insurance corporation that may be effected only by action or with the approval of the shareholders or members (other than an amendment authorizing or creating a new class or series of shares or increasing the authorized number of any previously authorized class or series of shares) shall become effective only if approved by the Insurance Department. See 15 Pa.C.S. § 103 (relating to subordination of title to regulatory laws).

(b) **Amendments not requiring approval of Insurance Department.**—The Department of State shall forward to the Insurance Department a copy of any amendment of the articles of incorporation or charter of any insurance corporation that becomes effective without the approval of the Insurance Department.

(c) **Reduction in capital stock.**—The capital stock of an insurance corporation shall not be reduced below the minimum amount of capital stock required by law for the formation of the corporation.

**Section 205. Other fundamental transactions.**

(a) **General rule.**—Any plan of merger, consolidation, exchange, asset transfer, division or conversion of any insurance corporation, any recapitalization or voluntary dissolution of any insurance corporation or any issuance of shares by any insurance corporation in exchange for shares of another insurance company shall become effective only if approved by the Insurance Department. See 15 Pa.C.S. § 103 (relating to subordination of title to regulatory laws).

(b) **Standards.**—A share exchange or similar transaction shall be approved if it is in accordance with law and the terms and conditions are fair. A reduction in capital stock shall be approved if it is in accordance with law and consistent with the interests of the policyholders and creditors. A merger or consolidation of a title insurance company or the acquisition of substantially all the assets or stock of a title insurance company or abstract company by a title insurance company shall be approved if it is in accordance with law, not inequitable to the shareholders of any title insurance or abstract company involved and will not substantially reduce the security of and service to be rendered to policyholders of the domestic title insurance company in this Commonwealth or elsewhere. Any other transaction subject to subsection (a) shall be approved if it is in accordance with law and not injurious to the interests of the policyholders and creditors.

(c) **Approval of compensation.**—No director, officer, agent or employee of any title insurance company or abstract company party to any merger, consolidation or acquisition subject to subsection (a) shall receive any fee, commission, compensation or other valuable consideration whatsoever for in any manner aiding, promoting or assisting therein except as set forth in the terms of the transaction submitted to the Insurance Department for approval.

(d) **Transactions with foreign corporations.**—Any foreign insurance company participating in or resulting from any transaction subject to subsection (a) shall engage in the transaction only with the approval of the insur-

ance supervising officials of the jurisdiction in which such foreign insurance company is incorporated or is to be incorporated. A change in domicile of an insurance corporation to another jurisdiction may be effected only with the consent of the Insurance Department. A foreign insurance company that is a surviving or resulting corporation in any transaction subject to subsection (a) shall not be deemed to hold a certificate of authority to do an insurance business within this Commonwealth solely by reason of the approval by the Insurance Department and consummation of the transaction.

(e) Mergers of stock and mutual insurance companies.—A mutual insurance company shall not merge or consolidate with an insurance corporation organized on a stock share basis.

(f) Dissolution of mutual companies.—Assets of mutual life insurance companies, derived from a health and accident business, other than those properly credited to the members or policyholders on policies covering such business, and the assets of mutual companies, other than mutual life companies, which may not be properly credited to policyholders and members, shall be escheated to the Commonwealth upon the dissolution of such companies.

(g) Definition.—As used in this section, the term “recapitalization” includes any reduction in stated capital and excludes any new or additional share authorization for which approval by the Insurance Department is not required by section 204.

Section 206. Increases in capital stock.

Within 30 days after any increase in the capital stock of an insurance corporation, the corporation shall report the increase to the Insurance Department on a form for that purpose prescribed by regulation by the department.

Section 207. Administrative procedure.

(a) General rule.—Every application for a certificate of authority or other approval by the Insurance Department under this division shall be made to the department in writing and shall be in such form as the procedural regulations of the department may require.

(b) Standards for approval.—A certificate of authority or other approval under this division shall be issued by order of the department only if and when the department shall find and determine that the application complies with the provisions of this division and the procedural regulations of the department thereunder.

(c) Procedure before department.—For the purpose of enabling the department to make the finding or determination required by subsection (b), the department shall afford reasonable notice and opportunity for hearing, which shall be public, and, before or after any such hearing, it may make such inquiries, audits and investigations, and may require the submission of such supplemental studies and information, as it may deem necessary or proper to enable it to reach a finding or determination. The department, in granting a certificate of authority or other approval, may impose such conditions as it may deem to be just and reasonable. In every case the department shall make a finding or determination in writing, stating whether or not the application has been approved, and, if it has been approved in part only,

specifying the part which has been approved and the part which has been denied. Any holder of a certificate of authority or other approval, exercising the authority conferred thereby, shall be deemed to have waived any and all objections to the terms and conditions of such certificate or other approval.

(d) **Judicial review.**—Orders of the department upon an application for a certificate of authority or other approval under this section shall be subject to judicial review in the manner and within the time provided or prescribed by law.

**Section 208.** Existing powers preserved.

Nothing in this act shall impair the power of any insurance corporation to transact business to the same extent as if this act had not been enacted.

### DIVISION III CONFORMING AMENDMENTS

**Section 301.** Amendment of Title 13.

Sections 9103(f) and 9403 of Title 13 are amended to read:

§ 9103. Perfection of security interests in multiple state transactions.

\* \* \*

(f) **Uncertificated securities.**—

(1) Except as provided in paragraph (2), the law (including the conflict of laws rules) of the jurisdiction of organization of the issuer governs the perfection and the effect of perfection or nonperfection of a security interest in uncertificated securities.

(2) In the case of a registered corporation as defined in 15 Pa.C.S. § 2502 (relating to registered corporation status), which has a class *or series, or any part thereof*, of uncertificated securities listed on the New York Stock Exchange or the American Stock Exchange, the law (~~including~~ *excluding* the conflict of laws rules) of the jurisdiction in which those exchanges are located governs the perfection and the effect of perfection or nonperfection of a security interest in such uncertificated securities.

§ 9403. What constitutes filing; duration of filing; effect of lapsed filing; duties of filing officer.

\* \* \*

(g) **Filing fees.**—*See 15 Pa.C.S. § 153 (relating to fee schedule).*

**Section 302.** Enactment of Title 17.

The Pennsylvania Consolidated Statutes is amended by adding a title to read:

### TITLE 17 CREDIT UNIONS

**Chapter**

1. Preliminary Provisions
3. Incorporation
5. Corporate Powers, Duties and Safeguards
7. Members, Directors and Officers
9. Amendment of Articles
11. Conversion, Merger and Consolidation
13. Dissolution

## 15. Out-of-State Credit Unions

CHAPTER 1  
PRELIMINARY PROVISIONS

Sec.

101. Short title of title.

102. Application of title.

103. Definitions.

104. Prohibition on use of words "credit union," etc.

§ 101. Short title of title.

This title shall be known and may be cited as the Credit Union Code.

§ 102. Application of title.

This title applies to and the term "credit union" in this title means a cooperative corporation incorporated under any of the following:

(1) The act of May 26, 1933 (P.L.1076, No.260), referred to as the Credit Union Act.

(2) The act of September 20, 1961 (P.L.1548, No.658), known as the Credit Union Act.

(3) This title.

§ 103. Definitions.

The following words and phrases when used in this title shall have the meanings given to them in this section unless the context clearly indicates otherwise:

**"Activity."** A transaction by a member on a loan, share account, share draft account or certificate or a verbal or written communication between the member and the credit union in which the member indicates an awareness or interest in funds deposited by the member in the credit union.**"Branch."** A subsidiary office of the credit union which is capable of offering the same or approximately the same level of service to members that can be found at the principal office of the credit union. The term includes a branch credit union, branch office, branch agency, additional office other than a service facility and branch place of business.**"Department."** The Department of Banking of the Commonwealth.**"Federal credit union."** A credit union organized in accordance with the provisions of the Federal Credit Union Act (48 Stat. 1216, 12 U.S.C. § 1751 et seq.).**"Out-of-State credit union."** A credit union incorporated under the laws of another state.**"Service facility."** A subsidiary office of the credit union which is not capable of offering the same or approximately the same level of service that can be found at the principal office of the credit union.**"Volunteer."** An individual who receives no compensation. Reasonable health, accident and similar insurance protection and the reimbursement of reasonable expenses incurred in the discharge of the duties of the volunteer's position are not compensation.

§ 104. Prohibition on use of words "credit union," etc.

(a) General rule.—Only a credit union subject to this title, a Federal credit union or a corporation organized in accordance with a state credit union statute may assume and use the words "credit union" in its name or title or operate in the manner of a credit union.

(b) Penalties.—Any person, other than a credit union subject to this title, a Federal credit union, a corporation organized in accordance with a state credit union statute or an association of credit unions, who violates subsection (a) by using a name or title containing the words "credit union" or any other derivation thereof or so representing itself in its advertising, or otherwise conducting business as a credit union shall, for each offense, be subject to a penalty levied by the Department of Banking which shall be not less than \$1,000 nor more than \$10,000. The officers of a corporation shall be liable for such penalty if the offense is committed by a corporation. This section shall be enforced by the department.

(c) Civil action.—Within 30 days after the department has received notice of an alleged violation of this section, the department shall determine whether a violation of this section exists. After the department has made its determination, a credit union, Federal credit union, out-of-State credit union or an association of these institutions may institute a civil action arising out of a violation of this section.

### CHAPTER 3 INCORPORATION

Sec.

301. Purposes.

302. Number and qualifications of incorporators.

303. Articles of incorporation.

304. Department of Banking consideration of articles.

305. Bylaws.

§ 301. Purposes.

(a) General rule.—A credit union may be incorporated under this title for the purpose of promoting thrift among its members, creating a source of credit for such members at reasonable rates of interest and providing an opportunity for its members to use and control their own money on a democratic basis in order to improve their economic and social condition.

(b) Central or corporate credit unions.—A central or corporate credit union formed primarily to serve other credit unions, including Federal credit unions and out-of-State credit unions, may be incorporated under this title and shall be subject to all provisions of this title not inconsistent with provisions specifically applicable to central or corporate credit unions. The purposes for which a central or corporate credit union may be incorporated are:

(1) To accumulate and prudently manage the liquidity of its member credit unions through interlending and investment services.

(2) To act as an intermediary for credit union funds between members and other corporate credit unions.

(3) To obtain liquid funds from other credit union organizations, financial intermediaries and other sources.

(4) To foster and promote, in cooperation with other state, regional and national corporate credit unions and credit union organizations or associations, the economic security, growth and development of member credit unions.

§ 302. Number and qualifications of incorporators.

(a) General rule.—A credit union may be incorporated pursuant to the provisions of this title by seven or more incorporators. Such incorporators shall be natural persons of full age, the majority of whom are residents of this Commonwealth and who have a common bond of association as provided in section 701 (relating to membership).

(b) Central or corporate credit unions.—A central or corporate credit union may be incorporated, pursuant to the provisions of this title, by 15 or more credit unions chartered under the laws of the United States or of any state, which have agreed to purchase shares in the credit union in amounts not less than the minimum specified in the bylaws.

§ 303. Articles of incorporation.

Articles of incorporation shall be signed by each of the incorporators. The articles of incorporation shall set forth:

(1) The name of the proposed credit union, which shall contain the words "credit union."

(2) The class of services to be performed by the credit union, which services shall be within the scope of activities of such associations as set forth in this title.

(3) The principal place where its business is to be transacted, which shall be within this Commonwealth.

(4) The term for which it is to exist, which may be perpetual.

(5) The par value of its shares.

(6) The names and post office addresses of the incorporators, and the number of shares subscribed by each.

(7) The names and residences of each of the first directors, not less than five in number, who shall serve until the first annual meeting of the credit union, and the name and residence of the treasurer.

(8) The common bond of membership.

(9) Any provision, not inconsistent with law, which the incorporators may choose to insert for the regulation of the business and the internal affairs of the credit union.

§ 304. Department of Banking consideration of articles.

(a) General rule.—The articles of incorporation and two copies of the proposed bylaws for the general governance of the credit union shall be presented to the Department of Banking, together with such reasonable fees as shall be established by the department, for such examination and such investigation as it may deem necessary to ascertain:

(1) Whether the character and general fitness of the incorporators, directors and the treasurer named in the articles of incorporation is satisfactory.



(2) Whether the character and number of the group proposed to be served affords reasonable promise of sufficient support for the enterprise so as to make the establishment of the proposed credit union economically advisable.

(3) Whether the incorporators, directors and group proposed to be served have a common bond of association as provided in section 701 (relating to membership).

(4) Whether the proposed credit union unduly encroaches upon the field of membership of any other credit union.

(5) Whether the application is in proper form and within the purpose of this title.

(6) Whether the savings of members paid for shares will be insured by the National Credit Union Administration or other share insurance fund approved by the department. Nonprofit corporations created by specific legislation of any state to insure share accounts or depository accounts of credit unions shall not be subject to regulation by the Department of Insurance or to the laws of this Commonwealth concerning insurance.

Within 60 days after receipt of the articles, the department shall, upon the basis of the facts disclosed by the application and its investigation, either approve or disapprove the articles.

(b) Approval action.—If the department approves the articles, it shall endorse its approval thereon and forward the articles to the Department of State. The Department of State shall, upon the receipt of the articles, file the same. Upon the filing of the article of incorporation, the corporate existence of the credit union shall begin. The articles of incorporation as filed in the Department of State are conclusive evidence of the fact that the credit union has been incorporated.

(c) Disapproval action.—If the Department of Banking disapproves the articles, it shall return them to the incorporators, stating in detail its reasons for doing so.

(d) Cross reference.—See 15 Pa.C.S. § 134 (relating to docketing statement).

### § 305. Bylaws.

(a) General rule.—The original bylaws of a credit union shall be adopted by the incorporators of the credit union and copies thereof shall be transmitted to the Department of Banking along with the articles of incorporation as provided in this chapter.

(b) Amendments.—Thereafter, bylaws may be amended either by two-thirds of the members present and voting or a majority of the board of directors at any regular or special meeting of the credit union, or of the board of directors, as the case may be, if notice thereof is given and a quorum is established in accordance with the bylaws.

(c) Restrictions on board of directors.—The board of directors shall not amend any bylaws fixing their qualifications, classification, term of office or compensation.

(d) Review by members.—Whenever the board of directors amends the bylaws, written notice thereof shall be given to the members prior to the next

meeting of the members or within 90 days after such action by the board of directors, whichever is sooner. Any amendment to the bylaws adopted by the board of directors may be repealed or amended by the members at a meeting held at least ten days after the mailing of the notice thereof.

CHAPTER 5  
CORPORATE POWERS, DUTIES AND SAFEGUARDS

Sec.

- 501. Powers.
- 502. Powers of central or corporate credit unions.
- 503. Regulation by Department of Banking.
- 504. Fiscal year.
- 505. Capital and shares.
- 506. Joint accounts.
- 507. Minority and trust accounts.
- 508. Estate accounts.
- 509. Fees and charges.
- 510. Loan interest.
- 511. Power to borrow.
- 512. Loans.
- 513. Reserves.
- 514. Dividends.
- 515. Rights and liabilities of terminating members.
- 516. Adverse claims.
- 517. Taxation.

§ 501. Powers.

(a) General rule.—A credit union shall have the following general powers:

- (1) To continue as a corporation for the time specified in its articles of incorporation subject to 15 Pa.C.S. § 501 (relating to reserved power of General Assembly).
- (2) To maintain and defend judicial proceedings in its corporate name.
- (3) To adopt and use a corporate seal, and alter the same at pleasure.
- (4) To grant allowances or pensions to officers, directors and employees for faithful and long-continued services and, after the death of the officer, director or employee either while in the service of the corporation or after retirement, pensions or allowances may be granted or continued to their dependents. The allowances to dependents shall be reasonable in amount and paid only for a limited time and, unless part of an employee benefit plan or employment contract in effect at the time of retirement or death of the officer, director or employee, shall not exceed in total the amount of the compensation paid to the officer, director or employee during the 12 months preceding retirement or death.
- (5) To have and exercise all of the powers and means necessary to effect the purpose or purposes for which the credit union is organized.

(b) **Special powers.**—Except as set forth in subsection (c), a credit union shall have the following special powers:

(1) To receive the savings of its members as payments, representing equity on shares, share draft accounts and share certificates.

(2) To make loans to members and to participate in loans to credit union members, including members of any Federal credit union or credit union chartered under the laws of any state, jointly with such other credit unions, credit union organizations or State or Federally chartered and regulated depository institutions, if the institution which originates such a loan shall be legally required to retain an interest of at least 10% of the outstanding balance of the loan. No loan may be made to any member if, upon the making of that loan, the member would be indebted to the credit union upon loans made to him in an aggregate amount which would exceed 10% of the credit union's unimpaired capital.

(3) To make loans to any cooperative society or societies, or other organization or organizations, which have membership in the credit union.

(4) To make purchase money mortgage loans to members secured by mortgages which are first liens on improved real property situated within the United States, the improvement being an established dwelling house for not more than four families which is owned by the member of the credit union making the mortgage and occupied or to be occupied, in whole or in part, by such member. Purchase money mortgages shall not exceed 90% of the fair market value of the property, except that shares of the credit union owned by the mortgagor may be assigned or pledged as additional collateral security for the mortgage loan and, in such event, the mortgage loan granted upon such property may be increased by the withdrawal value of the additional pledged shares to an amount not to exceed a maximum total mortgage loan of 100% of the fair market value of such real property, and the credit union may release this additional collateral whenever the mortgage loan meets all of the requirements of this title and could be made legally at the time of release without the requirement of additional collateral. Purchase money mortgage loans shall be amortized by approximately equal payments sufficient in amount to pay all interest and effect full repayment of principal within a period not in excess of 30 years. Purchase money mortgage loans on any one property shall not exceed 90% of the fair market value of the property, except as provided in this subsection, or 5% of the paid-in capital of the credit union, whichever is lesser. The aggregate total of mortgage loans shall not exceed 50% of the paid-in capital of the credit union. Without regard to the limitations as to the amount and term of a purchase money mortgage loan or the aggregate amount of all mortgage loans set forth in this paragraph, a credit union may grant any mortgage loan which is insured or guaranteed, in whole or in part, by the United States or any instrumentality thereof, or if there is a commitment to so insure or guarantee.

(5) To make loans to credit unions organized under the laws of this Commonwealth or under the laws of any state or under the laws of the United States. In the case of central or corporate credit unions, the aggre-

gate amount outstanding on all such loans shall not exceed 25% of the unimpaired capital of the lending credit union.

(6) To deposit its funds in insured state banks, bank and trust companies, savings banks, national banking associations, savings associations, Federal saving and loan associations, insured credit unions and insured Federal credit unions and central-type credit union organizations.

(7) To invest its funds in the following investments:

(i) Securities, obligations or other instruments of or fully guaranteed as to principal and interest by the United States or any agency thereof or in any trust established for investing directly or collectively in the same.

(ii) Bonds or other interest-bearing obligations of the Commonwealth or any political subdivision thereof or an authority which has been created as a body corporate and politic under any law of this Commonwealth.

(iii) Shares of any savings and loan association or credit union, organized under the laws of this Commonwealth, or of any Federal savings and loan association or Federal credit union, to the extent to which the withdrawal or repurchase value of such shares is insured by any agency of the United States or any other insurer approved by the Department of Banking.

(iv) Bonds and notes of the Pennsylvania Housing Agency created by the act of December 3, 1959 (P.L.1688, No.621), known as the Housing Finance Agency Law.

(v) Capital stock, obligations or other securities of any service corporation organized under the laws of this Commonwealth or under the laws of any other state and duly qualified to do business in this Commonwealth, if the entire capital stock of such corporation is available for purchase only by credit unions, organized and existing under the laws of this Commonwealth and by Federal credit unions or association of credit unions. A complete description of the service corporation and its activities must be furnished to the department and its approval obtained by the credit union before investing in such corporation. No credit union may make an investment in a service corporation if its then aggregate outstanding investments under this subparagraph would exceed 1% of its assets.

(vi) Obligations issued by banks for cooperatives, Federal land banks, Federal intermediate credit banks or any corporation designated in 31 U.S.C. § 9101(3) (relating to definitions) as a "wholly owned government corporation."

(vii) Obligations, participations or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association or the Government National Mortgage Association.

(viii) Mortgages, obligations or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to 12 U.S.C. § 1454 (relating to purchase and sale of mortgages;

residential mortgages; conventional mortgages; terms and conditions of sale or other disposition; authority to enter into, perform, and carry out transactions) or 1455 (relating to obligations and securities of the corporation).

(ix) Obligations or other instruments or securities of the Student Loan Marketing Association.

(x) Participation certificates evidencing beneficial interests in obligations, or in the right to receive interest and principal collections therefrom, which obligations have been subjected by one or more government agencies to a trust or trusts for which any executive department, agency or instrumentality of the United States (or the head thereof) has been named to act as trustee.

(xi) Bankers' acceptances issued by State banks, bank and trust companies and savings banks, and national banking associations the accounts of which are Federally insured.

Before making the investments described in subparagraphs (vi) through (xi), a credit union shall obtain the prior written approval of the department.

(8) To borrow money subject to the limitations set forth in this title.

(9) To make, amend, alter and repeal bylaws, not inconsistent with law, for the regulation of its affairs and the conduct and management of the credit union. Immediately upon the adoption of the bylaws, or any additions thereto, or any alteration, amendment or repeal thereof, notice of such fact and a copy of such bylaws or such alteration, amendment or repeal shall forthwith be sent to the department. The department shall, within 60 days after receipt thereof, have the power to disapprove, for any reasonable cause stated in writing, any such bylaw or any such alteration, amendment or repeal thereof, but the bylaw, alteration, amendment or repeal shall be effective until the department disapproves it and gives notice thereof to the credit union.

(10) To hold, purchase, mortgage, alter, improve and sell such real property, and furniture and fixtures to be used therein, as the purposes of the credit union require and which the credit union occupies or intends to occupy for the transaction of its business or partly so occupies and partly leases to others, except that, without the prior written approval of the department, the cost, at the time of acquisition, of such real property and furniture and fixtures therein shall not exceed in the aggregate 50% of the unimpaired surplus and undivided earnings of the credit union or 5% of its unimpaired capital up to \$1,000,000, plus 3% of its capital over \$1,000,000, whichever is greater.

(11) To purchase group insurance at reasonable rates on the lives of its members in an amount not to exceed the respective shares balances of such members.

(12) To act as an issuing agent of the United States Treasury for the sale, issuance and redemption of United States Savings Bonds to its members.

(13) To invest its funds in shares and become members of any insured central-type credit union organized under the laws of the United States or under the laws of this Commonwealth in which such investments are specifically authorized by the board of directors of the State credit union making the investment.

(14) To receive payments on shares and deposits from other credit unions and Federal credit unions. As used in this paragraph, the term "deposit" means a type of time or demand account in which the credit union incurs a debt to the depositor.

(15) To receive payments on shares which may be issued at varying dividend rates, share certificates which may be issued at varying dividend rates and maturities and share draft accounts from members or nonmember units of Federal, state or local governments, including any officer, employee or agent of the United States, any state or any political subdivision thereof, or any territory or possession of the United States having official custody of public funds and lawfully investing such funds in a credit union.

(16) To sell Federal funds to a bank or institution whose accounts are federally insured, provided that the interest or other consideration received from the financial institution is at the market rate for Federal funds transaction and that the transaction has a maturity of one or more business days or the credit union is able to require repayment at any time.

(17) With the prior written approval of the department, to sell all or a part of its assets and to assign its liabilities and capital to another credit union, Federal credit union or out-of-State credit union. Further, a credit union with prior written approval of the department shall have the power to purchase all or part of the assets and to assume the liabilities and capital of a credit union, Federal credit union or out-of-State credit union.

(c) Southern Africa investments.—No funds of a credit union shall be invested in any stock or obligation of any corporation doing business, either by itself or through any subsidiary or affiliate, in the Republic of South Africa or Namibia. This prohibition shall have prospective effect from February 20, 1990, and shall not affect existing investments.

§ 502. Powers of central or corporate credit unions.

(a) General rule.—A central or corporate credit union shall have the general power to enjoy the powers and privileges of any other credit union incorporated under this title in addition to those powers enumerated in this section, or otherwise granted to corporate or central credit unions, regardless of any limitations or restrictions found elsewhere in this title.

(b) Special powers.—A central or corporate credit union shall have the following special powers to:

(1) Accept shares or deposits in any form from its members, any credit union chartered under the laws of the United States or of any state, including central or corporate credit unions, and credit union organizations and associations.

(2) Make loans to its members, any credit union chartered under the laws of the United States or of any state, including central or corporate credit unions, and credit union organizations or associations.

(3) Buy and sell any form of marketable debt obligations of domestic or foreign corporations or of Federal, state or local government units.

(4) Borrow from any source without limitations, accept demand deposits from any source and issue notes and debentures.

(5) Acquire or sell the assets and assume the liabilities of a member and to enter into agreements with any credit union organized under the laws of the United States or any state to discount or purchase loans made pursuant to government guaranteed loan programs or real estate loans made by any credit union or any obligations of the United States or any agency thereof held by any credit union.

§ 503. Regulation by Department of Banking.

(a) General rule.—Credit unions shall be under the supervision of the Department of Banking. The department is hereby authorized and empowered to issue general rules and regulations and specific orders for the protection of members of credit unions, for insuring the conduct of the business of credit unions on a safe and sound basis and for the effective enforcement of this title. Credit unions shall report to the department as often as may be required by it and at least annually on blanks supplied by the department for that purpose. Supplementary reports may be required by the department from time to time. Credit unions shall be examined as often as may be required by the department and at least annually, and the department may use such other methods of assuring itself of the condition of the credit unions as it shall deem advisable. The cost of all such examinations and inspections shall be paid by the credit union. A credit union shall also pay annually its proportionate share of the overhead expense of the department determined by regulation of the department. For failure to file reports when due, unless excused for cause, a credit union shall pay to the department \$5 for each day of its delinquency.

(b) Suspension of personnel.—If, in the opinion of the department, a director, officer or committee member of a credit union has committed a violation of a statute, regulation or cease and desist order which has become final or has engaged in an unsafe or unsound practice involving the credit union or has breached a fiduciary duty and if the department determines that the credit union has suffered or will suffer substantial financial loss or other damage or that the interests of its members could be seriously prejudiced by reason of the violation, practice or breach, the department may suspend the director, officer or committee member upon written notice, pending a hearing to determine whether removal is required. The notice shall contain a statement of the facts constituting grounds for removal and shall indicate a time and place for a hearing. The hearing shall be fixed for a date between 30 and 60 days from the date of service of notice, unless an earlier or later date is set by the department at the request of the director, officer or committee member.

(c) Seizure of credit union.—If the department determines that a credit union is:

(1) violating any of the provisions of this title or any rule or regulation of the department issued under and within the authority of this title;

- (2) conducting its business in an unsafe manner;
- (3) in an unsafe and unsound condition to transact its business; or
- (4) insolvent;

the department may serve written notice of its intention to take possession of the credit union. If the condition continues for a period of 15 days after the giving of such notice, the department may, in its discretion, take possession of the business and property of the credit union and retain possession until such time as the condition predicated such action is remedied or until the affairs of the credit union are finally liquidated. The department may take similar action if any report is not filed within a period of 15 days after it is due. Any person aggrieved by the action of the department in taking possession of a credit union may appeal, whereupon the matter shall be set down for hearing de novo in accordance with the procedures set forth at 10 Pa. Code Ch. 3 (relating to hearings and conferences).

(d) Exchange of reports of examination.—Whenever the shares of a credit union are insured by the National Credit Union Share Insurance Fund or any other share insurance fund approved by the department, the department is authorized to furnish to the Administrator of the National Credit Union Administration or to any other approved insurer any reports of examination made by the department under this section. If a Pennsylvania credit union conducts business in another state through the establishment and operation of additional branch offices and service facilities under section 904 (relating to place of business), the department is authorized to furnish to the financial regulatory agency of that state reports of examination made by the department for the particular credit union.

§ 504. Fiscal year.

The fiscal year of all credit unions shall end on December 31 of each year.

§ 505. Capital and shares.

(a) General rule.—The capital of a credit union shall consist of the payments that have been made to it on shares.

(b) Automatic lien.—The credit union shall have an automatic lien on the shares or share certificates of a member for any sum due it from such member or for any loan endorsed by him.

(c) Share transfer restriction.—Shares of a credit union shall be transferable only to other members of the credit union.

(d) Share insurance required.—The shares representing the savings of members shall be insured in such amounts as provided by the National Credit Union Administration or other share insurance fund approved by the Department of Banking to insure the shares of credit unions. A credit union that has not obtained share account insurance from the National Credit Union Administration or other share insurance fund approved by the department may not, without the prior written approval of the department, accept payments from its members for the purchase of shares.

§ 506. Joint accounts.

(a) General rule.—Whenever shares of a credit union shall be issued in the names of two or more persons, the credit union shall not pay any dividends or earnings thereon, or the repurchase value thereof, except upon



proper receipt, acquittance or other action, as the case may be, of all of such persons, unless at the time of subscribing to the shares, or at a subsequent time, all the parties agree to a different arrangement, and give the credit union written notice thereof.

(b) Payments to less than all joint owners.—Whenever any share accounts of a credit union shall be issued in the names of two or more persons, and such share accounts shall have been subscribed for under an arrangement with the credit union whereby the dividends thereon, or the repurchase value thereof, may be paid upon receipt, acquittance or other action, as the case may be, of either or any of such persons, the credit union may pay such dividends or repurchase value upon such receipt, acquittance or other action, as the case may be, of either or any of such persons, pursuant to the arrangement provided for in this section, notwithstanding the fact that one or more of the other persons may be dead and the credit union has notice thereof.

(c) Revocation of agency.—The co-owner of a joint account may, with consent of the credit union, give said credit union written notice not to honor any or all requests for withdrawal of shares of any other co-owner of the joint account.

(d) Spousal accounts.—This section, except subsection (c), shall not be construed to affect share accounts in the names of a husband and his wife.

§ 507. Minority and trust accounts.

(a) General rule.—Shares may be issued and payments on subscribed shares received in the name of a minor, or in trust, in such manner as the bylaws may provide.

(b) Transactions with minors.—Whenever shares of a credit union shall be issued in the name of any minor 12 years of age or older, the credit union may pay the dividends or earnings thereon, as well as the withdrawal value of such shares, to such minor without the assent of his parent or guardian. The receipt, acquittance or other action required by the credit union to be taken by the minor shall be binding upon such minor with like effect as if such minor were of full age and shall be a valid release to the credit union. The parent or guardian of such minor shall not, in his capacity as parent or guardian, have the power to attach or in any manner transfer any shares issued to or in the name of such minor.

(c) Transactions with trustees.—Whenever shares of a credit union shall be issued to any person describing himself in subscribing for such shares as trustee for any person or persons, and no other notice of the existence and terms of a valid trust than such description shall have been given to the credit union, the dividends or earnings on such shares, as well as the withdrawal value of such shares, shall, in the event of the death of the person so described as trustee, be paid to the person or persons for whose benefit the shares were stated to have been subscribed if, at the time of payment, such beneficiary is 16 years of age or older. Payment may be made to any such beneficiary who is 16 years of age or older, under the same conditions as if such shares had been originally subscribed for by him. If there are two or more beneficiaries named on any such shares, the credit union shall, in the

absence of written notice to the contrary, make payment to such of the beneficiaries as may survive the trustee, in equal portions. The receipt or acquittance of any such beneficiary or beneficiaries for payments made in accordance with this section shall be a full, complete and valid release of the credit union from any further liability for the amounts so paid.

§ 508. Estate accounts.

(a) General rule.—In the absence of a written agreement or document to the contrary, the assets in the account of a deceased member shall be considered part of the estate of the deceased member. In the absence of such an agreement or document and except for a release of such assets under existing law, the credit union shall, upon learning of the death of the member, freeze the assets in the account of the member and shall not permit deposits or withdrawals to be made in the account without receiving authorization by a court-recognized representative of the estate for deposits or withdrawals. Until the credit union receives the authorization, it may, if its bylaws so provide, close the account of the deceased member and transfer the funds to unclaimed shares. The payment of the funds of the deceased member to the estate of the deceased member shall release the credit union from liability for the amounts paid.

(b) Establishment of account by personal representative.—A court-recognized representative of the estate of a deceased member may open an account with the credit union for the deposit and withdrawal of the funds of the estate, whether or not the representative is a member, if the deceased member was in good standing at the time of death. The payment of the funds of the estate to the estate of the deceased member shall release the credit union from liability for the amounts paid. If a court-recognized representative of an estate is a member of the credit union, the representative may open a separate account with the credit union for the deposit and withdrawal of funds of the estate, whether or not the decedent was a member of the credit union. The payment of the funds of the estate to the estate shall release the credit union from liability for the amounts paid.

§ 509. Fees and charges.

(a) Entrance fees.—A credit union may charge an entrance fee of an amount, not in excess of \$1, as may be provided by the bylaws.

(b) Fees in connection with loans.—A credit union may collect fees paid to public officials, actual fees necessary to secure collateral, fees required to be charged by government agencies and reasonable attorney fees. Furthermore, in connection with real estate loans, a credit union may collect charges and fees necessary to sell the loans to any agency or instrumentality of the Federal Government or a corporation which engages in the business of purchasing mortgage loans.

(c) Fees in connection with collectors or outside collection agencies.—A credit union may collect fees paid to outside collectors or outside collection agencies, provided the aggregate of such collection fees does not exceed 20% of the outstanding loan balance.

(d) Other fees.—A credit union may additionally charge fees for other services to its members, provided that the fees charged will be for the actual cost of the respective services provided by the credit union.

(e) Late payment charges.—A credit union may collect late payment charges not in excess of 5% of the principal and interest due on any installment payment of a loan that is more than 15 days delinquent.

§ 510. Loan interest.

(a) General rule.—Interest rates on loans made by a credit union to its members shall not exceed 15% per annum when calculated on the unpaid principal balances. Interest shall be computed for the actual number of days which have elapsed at the time of payment, except that interest for mortgage loans may be paid according to a preauthorized amortization schedule.

(b) Procedure for increase in rates.—Before any credit union shall charge any higher rate than that authorized in subsection (a), it shall obtain approval for such higher rate from at least two-thirds of the board of directors of the credit union, and such higher approved rate shall then apply only to loans made by the credit union thereafter. Members shall be notified in writing of the action of the board of directors not later than the next regular mailing of members account statements, which is at least 20 days subsequent to the action of the board.

(c) Penalty for overcharge.—The taking, receiving, reserving or charging interest greater than allowed by this section shall be deemed a forfeiture of the entire interest on the loan, except when such overcharge is the result of a clerical error in computation. In case an interest greater than that which is allowed by this section has been paid, the borrower may, within six months after payment, recover from the credit union the entire amount of interest paid, except when such overcharge is the result of a clerical error in computation in which case only the excess interest paid may be recovered.

(d) Additional powers of certain insured credit unions.—A credit union insured by a share insurance fund other than the National Credit Union Share Insurance Fund may make any loan authorized by this title, at such interest, finance charge, rate and terms as a credit union insured by the National Credit Union Share Insurance Fund, except that the authority permitted under this subsection shall not apply to the extension of credit for the purchase of goods and services through the issuance and use of credit cards.

§ 511. Power to borrow.

(a) General rule.—A credit union may borrow from any source a sum not exceeding 50% of its capital, surplus and undivided earnings for the purpose of meeting the demand for loans to members or for the purpose of meeting demands for share withdrawals.

(b) Exception.—A credit union shall not borrow for the purpose of making investments authorized by section 501(b)(7) (relating to powers).

§ 512. Loans.

Except as otherwise provided in this title, a credit union may make loans to its members only. Loans must be made subject to the conditions contained in the bylaws. A borrower may repay his loan, in whole or in part, any day the office of the credit union is open for business. No director, officer or member of any committee may obtain a loan from the credit union in which he holds office on terms, rates or conditions more favorable than those granted to any other member or endorse a loan granted by the credit union in which he holds office.

**§ 513. Reserves.**

(a) General rule.—At the end of each accounting period, the gross income shall be determined. From this amount, there shall be set aside, as a regular reserve against losses on loans and against such other losses as may be specified by the Department of Banking, sums in accordance with the following schedule:

(1) A credit union in operation for more than four years and having assets of \$500,000 or more shall set aside:

(i) 10% of gross income until the regular reserve shall equal 4% of the total of outstanding loans and risk assets; then

(ii) 5% of gross income until the regular reserve shall equal 6% of the total of outstanding loans and risk assets.

(2) A credit union in operation less than four years or having assets of less than \$500,000 shall set aside:

(i) 10% of gross income until the regular reserve shall equal 7.5% of the total of the outstanding loans and risk assets; then

(ii) 5% of gross income until the regular reserve shall equal 10% of the total of outstanding loans and risk assets.

(3) Whenever the regular reserve falls below the stated percentage of the total of outstanding loans and risk assets, it shall be replenished by regular contributions in such amounts as may be needed to maintain the stated reserve goals.

(4) All entrance fees collected shall be set aside in the regular reserve fund.

(5) The regular reserve fund thus established shall not be loaned out to members and shall be deposited as authorized in section 501(b)(6) (relating to powers) or invested in such investments as are authorized by section 501(b)(7). The regular reserve fund shall belong to the credit union and shall not be distributed except in case of liquidation. The board of directors shall decide the loans which are to be charged off against the regular reserve fund, except that the Department of Banking may, at the time of examination of a credit union, recommend for charge-off such loans which in its opinion are unsound, which loans shall be charged against the regular reserve fund within 60 days of the receipt of such recommendation from the department. Any amount received from the repayment of a loan after it has been charged off against the regular reserve fund shall be credited back to the fund.

(6) The directors are authorized, after the required reserve has been provided for, to make additional transfers from undivided earnings to a contingent reserve for other anticipated losses and expenses, but the members at the annual meeting may retransfer any part or all of such contingent reserve to the undivided earnings account.

(b) Changes in reserve requirement.—The department may decrease the reserve requirement set forth in subsection (a) when in its opinion such a decrease is necessary or desirable. The department may also require special reserves to protect the interests of members either by regulation or for an individual credit union in any special case.

§ 514. Dividends.

(a) General rule.—The board of directors of a credit union or the members on recommendation of the board of directors, whichever the bylaws provide, may declare dividends to be paid on all shares and share certificates from the net earnings and undivided earnings at such intervals and for such periods as the board of directors may authorize and after provision for the required reserves. Within the discretion of the board of directors, payments on all shares which are made within the first ten days of a month may be entitled to dividends for the full month in which such payment is made. Dividends may be added to the credit of the members share accounts, paid in cash, or partially credited to share accounts and partially paid in cash, at the option of the board of directors.

(b) Inactive accounts.—A share account may be transferred to a special account if, for at least six years, there has been no activity by the owner of the account and all written communications from the credit union to the owner of the account have been returned to the credit union with no forwarding address. After the transfer, the credit union may cease paying dividends on the transferred account and may cease sending notices to the owner. A member whose account has been transferred may reclaim the funds from the credit union at any time prior to the time the account is escheated. After escheat, reclaiming is governed by Article XIII.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

§ 515. Rights and liabilities of terminating members.

All amounts paid on shares of an expelled or withdrawing member, with any dividends accredited thereto to the date thereof, shall, as funds become available and after deducting all amounts due from the member to the credit union, be paid to him. The credit union may require 60 days' notice of intention to withdraw shares. Withdrawing or expelled members shall have no further rights in the credit union, but they shall not by such withdrawal or expulsion be released from any remaining liability to the credit union.

§ 516. Adverse claims.

(a) General rule.—Notice to a credit union or Federal credit union of an adverse claim against shares standing in the name of any member shall not be effectual to cause the credit union or Federal credit union to recognize such adverse claim, unless the adverse claimant shall procure either an attachment or proper restraining order against the credit union or Federal credit union from a court of competent jurisdiction in a cause of action therein instituted by him, wherein the member or his legal representative is made a party in the manner provided by law, or unless he shall execute to the credit union or Federal credit union in form, and with sureties acceptable to it, a bond indemnifying the credit union or Federal credit union from any liability, loss, damages, costs and expenses arising from the recognition of such adverse claim.

(b) Exception.—This section shall not apply in any instance where the person in whose name the shares are held is a trustee for such adverse claimant, and the facts constituting such relationship, as well as the facts showing reasonable cause of belief on the part of the claimant that such trustee is

about to misappropriate the shares, are made to appear by verified statement of such claimant.

§ 517. Taxation.

A credit union incorporated under or subject to this title shall be deemed an institution for savings, and its assets, together with all the accumulation therein, shall not be subject to taxation except as to real estate owned by it. The shares of a credit union shall not be subject to a capital stock bonus tax or a stock transfer tax when issued by the corporation.

CHAPTER 7  
MEMBERS, DIRECTORS AND OFFICERS

Sec.

- 701. Membership.
- 702. Meetings.
- 703. Voting rights and procedures.
- 704. Notice to members.
- 705. Expulsion and withdrawal.
- 706. Election of directors and credit and supervisory committee members.
- 707. Duties of directors generally.
- 708. Officers.
- 709. Compensation of directors and officers.
- 710. Executive committee.
- 711. Procedures for approving service by certain persons.
- 712. Indemnification and exoneration from liability of directors and officers.
- 713. Loan procedures.
- 714. Annual examination.
- 715. Actions by members to enforce a secondary right.

§ 701. Membership.

(a) General rule.—Credit union organizations shall be limited to groups having a potential membership of 500 or more adult persons and having a common bond of association within a well-defined community or rural district by reason of occupation or of membership in a religious congregation or fraternal or labor organization or residence within a well-defined community or rural district. A credit union may also retain its original field of membership and, additionally, include in its field of membership other occupational groups, as well as like associational groups having a common bond with the original field of membership, with insufficient number of members to form or conduct the affairs of a separate credit union, if the existing credit union obtains prior permission from the Department of Banking. The membership of a credit union shall be limited to and consist of the incorporators of the credit union and such other persons, having the common bond of association, set forth in the articles of incorporation, as have been duly admitted members, have paid the entrance fee as provided in the bylaws and own and retain one or more shares. Organizations composed principally of the same group as the credit union membership may be members. Employees of credit unions may be members of such credit unions.

(b) Family members.—Persons who are members of the immediate family of a member of the credit union may be elected to membership.

(c) Trust and joint tenancy deposits.—Shares may be issued in trust for or in joint tenancy with the right of survivorship with any person designated by the credit union member, but no joint tenant or beneficiary of a trust shall be permitted to vote, obtain a loan or hold office unless he is within the field of membership and is a qualified member in his own right.

(d) Continuation of membership.—Any member who leaves or has left the field of membership and has not withdrawn all of his share account shall not cease to be a member of the credit union by reason thereof, and he shall have all of the rights and obligations of membership, including, but not limited to, the right to retain and to add to his share account and the right to vote. Upon leaving the field of membership, the provisions of this subsection shall apply to persons who have become members of the credit union solely by reason of the provisions of subsection (b), but the provisions of subsection (c) shall not be affected by this subsection.

(e) Spouse of deceased member.—The unremarried widow or widower of a deceased member may become a member of the credit union.

#### § 702. Meetings.

The annual meeting shall be held at the time, place and in the manner indicated in the bylaws. Special meetings may also be held in the manner provided in the bylaws.

#### § 703. Voting rights and procedures.

At all meetings a member shall have but one vote, irrespective of his shareholdings. There shall be no voting by proxy, but any member, other than a natural person, may cast its vote through an agent duly delegated and appointed agent in writing.

#### § 704. Notice to members.

(a) General rule.—All written notices required by this title to be given to members shall be delivered in person to each member or mailed to each member at the address for such member appearing on the records of the credit union.

(b) Notice of changes in fees, charges or policies.—Each new member to a credit union shall be provided with written notice by the respective credit union listing any fees, service charges or policies regarding the transfer of funds to noninterest bearing accounts. A new member and each existing member shall subsequently be provided with similar written notice if there is a change by the credit union in the amount or type of fees or service charges or a change in the policy regarding the transfer of funds to noninterest bearing accounts. The credit union shall also provide such information to any member upon request by that member.

#### § 705. Expulsion and withdrawal.

(a) Expulsion.—A member may be expelled:

(1) by a vote of a majority of the members present at a regular or a special meeting called to consider the matter at which a quorum, as provided in the bylaws, is present but only after a hearing after due notice to the member of the time and place of the meeting and of the reason or reasons for such proposed expulsion; or

(2) by a vote of a two-thirds majority of the board of directors present at a regular or special meeting called to consider the matter if:

- (i) the board has given the member notice of the meeting and of the reason for proposed expulsion;
- (ii) there is a quorum, as provided in the bylaws, present at the meeting; and
- (iii) there is a hearing on the matter at the meeting.

(b) **Withdrawal.**—Any member may withdraw from the credit union at any time, but notice of withdrawal may be required.

§ 706. Election of directors and credit and supervisory committee members.

(a) **General rule.**—At the organization meeting and at all subsequent annual meetings, the credit union members shall elect from the membership of the credit union a board of directors of not less than five members, a credit committee of not less than three members if the bylaws so provide and a supervisory committee of not less than three nor more than five members if the bylaws so provide, all to hold office for such terms respectively, as the bylaws provide and until successors are duly qualified. If permitted by the bylaws, the election may be conducted by mail ballot. A member shall not serve on more than one of the committees. Not more than one member of the board, who shall not be the treasurer or an assistant treasurer, may serve as a member of the credit committee. A member of the board of directors, treasurer or an assistant treasurer may not serve on the supervisory committee.

(b) **Report to department.**—A statement in writing of the names and addresses of the members of the board and the committees and the officers shall be filed with the Department of Banking within ten days after their election and qualification. For failure to file such statements when due, unless excused for cause, the credit union shall pay to the department \$5 for each day of its delinquency.

§ 707. Duties of directors generally.

The directors of a credit union shall have general management of the affairs of the credit union and are specifically required:

- (1) To act on applications for membership.
- (2) To determine interest rates on loans.
- (3) To fix the amount of the surety bond which shall be required of all officers and employees handling money which amount shall be not less than the minimum schedule established by the Department of Banking.
- (4) To declare dividends or recommend dividends as provided in the bylaws.
- (5) To transmit or cause to be transmitted to the members all proposed amendments to the bylaws.
- (6) If the bylaws provide for appointed credit or supervisory committees, to appoint individuals to serve on the credit committee or the supervisory committee and to fill vacancies in the board and in the credit committee until successors are duly chosen and qualified.
- (7) To determine the maximum individual share holdings and, subject to the limitations contained in this title, the maximum individual loan which can be made with or without security.



(8) To have charge of investments, first mortgage loans and loans to other credit unions and Federal credit unions but not loans to members which are under the supervision of the credit committee as otherwise provided in this title. The board may, however, delegate to the credit committee the authority to approve some or all first mortgage loans and to an investment committee or qualified individual the authority to make all or some investments if the board first establishes guidelines and standards for the approval and making of such loans and investments in accordance with the policies of the board of directors.

(9) To fix the amount of compensation of directors, officers, committee members, the loan officer and employees.

(10) To determine whether, to what extent and to what class or classes of borrowers, if any, an interest refund is to be made in any dividend period. Any such interest refund shall be paid in proportion to the interest paid by each borrower within any class during that dividend period. No interest refund may be authorized unless a share dividend at the rate of not less than 5% has been declared from the earnings of that dividend period.

(11) To appoint alternate credit committee members as needed to serve during incapacity or absence of the credit committee members.

§ 708. Officers.

At their organizational meeting and within 30 days following each annual meeting of the members, the directors shall elect from their own number either a president and one or more vice presidents or a chairman and one or more vice chairmen, a treasurer and a secretary. The same individual may be both treasurer and secretary. The directors may appoint one or more assistant treasurers. The directors may appoint a membership officer from among the members of the credit union, other than the treasurer, an assistant treasurer or a loan officer. The directors may employ an officer in charge of operations, who shall be under the direction and control of the board or of the treasurer, as determined by the board of directors. The membership officer or the officer in charge shall have the authority to approve applications for membership under such conditions as the directors may prescribe. The membership officer or officer in charge so authorized shall submit to the directors at each monthly meeting a list of approved or pending applications for membership received since the previous monthly meeting, together with such other related information as the bylaws or the board may require.

§ 709. Compensation of directors and officers.

A member of the board of directors and members of the credit committee and the supervisory committee may be compensated if the credit union paid a dividend of not less than 3% from the earnings of the last preceding year. The Department of Banking may prohibit or regulate the payment of compensation of directors, committee members and officers, exclusive of the treasurer, if it deems such compensation excessive or if, in its opinion, the financial condition of the credit union is not such as to warrant the payment of such compensation.

§ 710. Executive committee.

The directors may appoint from their own number an executive committee of not less than three directors, who may be authorized to act for the board in all respects, subject to such conditions and limitations as prescribed by the board.

§ 711. Procedures for approving service by certain persons.

(a) General rule.—No person who has been convicted of a misdemeanor or a felony involving dishonesty, breach of trust or violation of this title or corresponding provisions of prior law may serve as an officer, director, committee member or employee of a credit union unless the person:

(1) in the case of an officer, director or committee member seeking office, has the unanimous approval of the nominating committee of the credit union;

(2) in the case of an employee, has the approval of the officer in charge of operations;

(3) in the case of an officer, including an officer in charge of operations, director or committee member seeking office, has the unanimous approval of the board of directors of the credit union; or

(4) in the case of an employee, other than an officer in charge of operations, has the approval of the board of directors by a vote of at least two-thirds of the board of directors.

(b) Disclosure statement.—Every officer, director, committee member and employee shall sign a sworn statement disclosing whether he has ever been convicted of a misdemeanor or a felony involving dishonesty, breach of trust or violation of this title or corresponding provisions of prior law.

§ 712. Indemnification and exoneration from liability of directors and officers.

(a) Indemnification.—A credit union shall be governed by the provisions of 15 Pa.C.S. Ch. 17 Subch. D (relating to indemnification).

(b) Exoneration from liability of volunteer officers.—Volunteer officers of Federal, State and out-of-State credit unions shall be entitled to the protection and rights set forth in 15 Pa.C.S. § 513 (relating to personal liability of directors) if the membership adopts a bylaw to that effect.

(c) Standard of care and personal liability of directors.—See 15 Pa.C.S. §§ 512 (relating to standard of care and justifiable reliance) and 513.

§ 713. Loan procedures.

(a) Credit committee.—If the bylaws provide for a credit committee, the credit committee shall have the supervision of all loans to members other than first mortgage loans, except to the extent approval of such mortgage loans has been delegated to the credit committee, and loans to other credit unions and Federal credit unions.

(b) Conflict of interest.—No credit committee member, loan officer or director of a credit union shall vote on the granting of any loan in which such official or a member of his or her immediate family has a beneficial interest.

(c) Applications.—Applications for loans shall be in writing on a form prepared or approved for that purpose by the credit committee or, in the absence of a credit committee, by either the board of directors or a person

delegated by the board of directors; and all applications shall set forth the purpose for which the loan is desired, the security, if any, offered, and such other data as may be required. Within the meaning of this section, a pledge of shares in the credit union or the endorsement of a note may be deemed security.

(d) **Approval by credit committee.**—If the bylaws provide for a credit committee, at least a majority of the members of the credit committee shall pass on all loans, and no loan shall be approved unless it is approved by a majority of the members of the credit committee present and voting, unless the credit committee has appointed one or more loan officers and delegated to such person the power to approve loans, share withdrawals of amounts previously pledged as security for a loan, releases and substitutions of security, within limits specified by the committee. The credit committee shall meet as often as may be necessary after due notice to each member.

(e) **Approval by loan officer.**—If the bylaws do not provide for a credit committee, the board of directors shall appoint a loan officer and delegate the powers of the credit committee under subsection (d) to the loan officer.

(f) **Reports.**—Each loan officer shall furnish to the credit committee or, in the absence of a credit committee, to the board of directors a record of each loan approved or not approved by such person within seven days of the date of the filing of the application therefor.

(g) **Procedure in absence of loan officer.**—All loans not approved by a loan officer shall be acted upon by the credit committee or, in the absence of a credit committee, by the board of directors or a director designated by the board of directors.

(h) **Restrictions.**—No individual shall have authority to disburse funds of the credit union for any loan which has been approved by such individual in his or her capacity as loan officer. Not more than one member of the credit committee may be appointed as loan officer.

#### § 714. Annual examination.

(a) **Supervisory committee.**—If the bylaws of the credit union provide for a supervisory committee, the duties of the supervisory committee shall be as follows:

(1) To make at least an annual examination of the affairs of the credit union. The committee shall submit a report to the board of directors and to the members at the next annual meeting of the credit union.

(2) By unanimous vote, if it deems such action to be necessary to the proper conduct of the affairs of the credit union, to suspend any officer, director or member of any committee other than the supervisory committee. In such event, the committee shall call the members of the credit union together, within ten days of the suspension, to act on such suspension. The members at the meeting called for this purpose may sustain such suspension or remove such person from office or may reinstate such person.

(3) By majority vote, the supervisory committee may call a special meeting of the members to consider any matter submitted to it by the committee. The committee shall fill vacancies in its own membership unless otherwise provided in the bylaws.

(b) Default by supervisory committee.—Whenever the supervisory committee fails to make the examinations or reports as provided in subsection (a)(1), the board of directors shall remove from office the members of the supervisory committee and appoint a new committee to make such examinations, or the board may employ the services of a public accountant to make such examinations. The charges for the services of such public accountants shall be paid by the credit union. If the board of directors under such circumstances fails or refuses to act, the Department of Banking may, in addition to its other powers, remove the members of the supervisory committee and issue an order on the board of directors requiring such examinations to be made by a public accountant at the expense of the credit union.

(c) Examination by public accountant.—If the bylaws do not provide for a supervisory committee, the board shall employ the services of a public accountant to make examinations under subsections (a) and (b). The charges for the services of the public accountant shall be paid by the credit union.

§ 715. Actions by members to enforce a secondary right.

(a) General rule.—In any action brought to enforce a secondary right on the part of one or more members against any officer or director or former officer or director of a credit union because the corporation refuses to enforce rights which may properly be asserted by it, the plaintiff or plaintiffs must aver and it must be made to appear that the plaintiff or each plaintiff was a member of the corporation at the time of the transaction of which he complains or that his membership devolved upon him by operation of law from a person who was a member at that time.

(b) Security for costs.—In any such action instituted or maintained by a holder or holders of less than 5% of the outstanding share accounts of the credit union, the credit union in whose right the action is brought shall be entitled, at any stage of the proceedings, to require the plaintiff or plaintiffs to give security for the reasonable expenses, including attorney fees, which may be incurred by it in connection therewith and for which it may become liable pursuant to section 712(a) (relating to indemnification) (but only insofar as relates to mandatory indemnification in actions by or in the right of the corporation), to which security the corporation shall have recourse in such amount as the court having jurisdiction shall determine upon the termination of the action. The amount of the security may, from time to time, be increased or decreased in the discretion of the court having jurisdiction of the action upon showing that the security provided has or may become inadequate or excessive.

## CHAPTER 9 AMENDMENT OF ARTICLES

Sec.

901. Procedure for amendment of articles.
902. Articles of amendment.
903. Filing and review of articles of amendment.
904. Place of business.

**§ 901. Procedure for amendment of articles.**

The articles of incorporation may be amended at any regular or special meeting of the credit union, if written notice of the meeting and of the proposed amendment or amendments is furnished each member at least ten days prior to the meeting at which such amendment or amendments will be considered. Notwithstanding statutory provisions to the contrary, the articles of incorporation may alternatively be amended by the members through mail ballot voting as provided in the bylaws. Amendments to the articles of incorporation must be approved by a majority of the members present at any meeting at which the amendments are considered or, in the case of a mail ballot, by a majority of the members responding by mail ballot. The proposed amendments shall be acted upon only in the event a quorum of the members, as provided in the bylaws, is present or, in the case of a mail ballot vote, a number of returned mail ballots equal to the quorum of the members, as provided in the bylaws, exists.

**§ 902. Articles of amendment.**

The articles of amendment shall be signed by an officer of the credit union and shall set forth:

- (1) The name and principal place of business of the credit union.
- (2) The amendment or amendments as adopted by the members.
- (3) The date of the meeting at which the amendment, or amendments, was adopted.
- (4) That notice of the meeting at which the amendment, or amendments, was considered was given to each member as provided in this title.
- (5) That, at the meeting at which the amendment, or amendments, was considered, a quorum of the members was present as provided in the bylaws.
- (6) That the amendment, or amendments, was approved by a majority of the members voting.

**§ 903. Filing and review of articles of amendment.**

(a) General rule.—Articles of amendment shall be filed with the Department of Banking. If the department finds that the articles of amendment conform to law, it shall endorse its approval thereon and forward the articles of amendment to the Department of State. Upon receipt of the articles of amendment, the Department of State shall file the same.

(b) Cross reference.—See 15 Pa.C.S. § 134 (relating to docketing statement).

**§ 904. Place of business.**

(a) Change in principal place of business.—A credit union may change its place of business upon the filing of a statement of change of principal place of business with the Department of State and the Department of Banking.

(b) Branch offices and service facilities.—If a credit union gives the Department of Banking prior written notification and, in the case of branch offices, receives prior approval from the department, it may establish and maintain, at locations other than its principal place of business, additional branch offices and service facilities to furnish services to its members.

(c) Cross reference.—See 15 Pa.C.S. § 134 (relating to docketing statement).

## CHAPTER 11 CONVERSION, MERGER AND CONSOLIDATION

Sec.

- 1101. Conversion into Federal credit union.
- 1102. Conversion from Federal credit union.
- 1103. Merger and consolidation authorized.
- 1104. Adoption of plan.
- 1105. Articles of merger or consolidation.
- 1106. Supervisory mergers or consolidations by Department of Banking.

§ 1101. Conversion into Federal credit union.

(a) General rule.—A credit union may be converted into a Federal credit union by complying with the following requirements:

(1) The proposition for such conversion shall first be approved by a majority vote of the directors of the credit union who shall also set a date for the vote thereon by the members. The vote of the members shall be conducted at a meeting held on such date or by written ballot to be filed on or before such date. Written notice of the proposition and of the date set for the vote shall be given each member not more than 30 nor less than ten days prior to such date. Approval of the proposition shall be by the affirmative vote of a majority of the members, in person or in writing.

(2) A statement of the result of the vote, certified by an officer of the credit union, shall be filed with the Department of Banking within ten days after the vote is taken.

(3) Promptly after the vote is taken and in no event later than 90 days thereafter, if the proposition for conversion was approved, the credit union shall take such action as may be necessary under the applicable laws of the United States to make it a Federal credit union, and, within ten days after receipt of the Federal credit union charter, it shall file a copy of the charter thus issued with the Department of State which shall furnish a copy thereof to the Department of Banking. Upon such filing with the Department of State, the credit union shall no longer be subject to any of the provisions of this title. The successor Federal credit union shall be vested with all of the assets and shall continue to be responsible for all of the obligations of the credit union thus converted to the same extent as though the conversion had not taken place.

(b) Cross reference.—See 15 Pa.C.S. § 134 (relating to docketing statement).

§ 1102. Conversion from Federal credit union.

(a) General rule.—A Federal credit union may be converted into a credit union subject to the provisions of this title by:

(1) Complying with all Federal requirements requisite to enabling it to convert to a credit union or to cease being a Federal credit union.

(2) Filing with the Department of Banking proof of compliance with such Federal requirements in form satisfactory to the department.

(3) Filing with the department articles of conversion which shall set forth:

(i) The proposed name of the converted credit union.

(ii) The exact location of the principal place of business of the credit union into which the Federal credit union plans to become converted.

(iii) The number, names and addresses of the persons to be the first directors of the converted credit union.

(iv) All other statements required by this title to be set forth in original articles of incorporation in the case of the formation of a credit union in so far as such information is applicable to a Federal credit union proposing to become converted into a credit union.

(b) Department of Banking review.—Immediately upon the receipt of the articles of conversion, the department shall conduct such examination as may be deemed necessary to ascertain from the best sources of information at its command:

(1) Whether the name of the proposed credit union conforms with the requirements of law for the name of a credit union and whether it is the same as one already adopted or reserved by another person or is so similar thereto that it is likely to mislead the public.

(2) Whether the conversion is made for legitimate purposes.

(3) Whether the interests of members and creditors are adequately protected.

(4) Whether the proposed credit union meets all of the requirements of this title and violates none of its prohibitions applicable to a credit union incorporated under this title.

(5) Whether the Federal credit union has complied with the requirements of the laws of the United States as they relate to the conversion of a Federal credit union into a credit union.

Within 60 days after receipt of the articles of conversion, the Department of Banking shall, upon the basis of the facts disclosed by its investigation, either approve or disapprove such articles.

(c) Approval action.—If the department approves the articles, it shall register its approval thereon and shall forward them to the Department of State for filing. Immediately upon receipt of the approved articles of conversion, the Department of State shall file the articles. The conversion shall become effective immediately upon such filing and the converted credit union shall have all the rights, privileges, immunities and franchises of the Federal credit union, except that it shall not thereafter acquire authority to engage in any business or exercise any right which is forbidden to a credit union when originally incorporated under this title.

(d) Disapproval action.—If the Department of Banking disapproves the articles of conversion, it shall return them to the Federal credit union desiring to become converted into a credit union stating in detail its reasons for so doing.

(e) Cross reference.—See 15 Pa.C.S. § 134 (relating to docketing statement).

§ 1103. Merger and consolidation authorized.

(a) General rule.—A credit union subject to this title may merge or consolidate with other credit unions, with Federal credit unions, with out-of-State credit unions or with a combination of other credit unions, Federal credit unions and out-of-State credit unions to form a credit union, Federal credit union or out-of-State credit union.

(b) Approvals and conditions.—Before merging or consolidating, the credit unions involved must obtain prior approval from the Department of Banking. In the case of a merger or consolidation with a Federal credit union, the merger or consolidation shall be made pursuant to Federal law in addition to the provisions of this title. In the case of a merger or consolidation with an out-of-State credit union, the merger or consolidation shall be made pursuant to the credit union law of the state of incorporation of the out-of-State credit union or, if credit unions incorporated in different states are involved, pursuant to the credit union laws of the various states of incorporation of the out-of-State credit unions in addition to the provisions of this title.

§ 1104. Adoption of plan.

(a) General rule.—The board of directors of each of the credit unions, Federal credit unions or out-of-State credit unions which desire to merge or consolidate shall, by resolution adopted by at least a majority of all the members of each board, approve a plan of merger or consolidation setting forth the terms and conditions of the merger or consolidation and the mode of carrying the same into effect, the manner and basis of converting the shares of each credit union, Federal credit union or out-of-State credit union into shares or other securities or obligations of the surviving or new credit union, Federal credit union or out-of-State credit union, and such other details and provisions as are deemed necessary. Except where the approval of the members is not required, the board of directors shall direct that the plan be submitted to a vote of the members of such credit union, Federal credit union or out-of-State credit union entitled to vote thereon at an annual or special meeting of the members to be held on not less than 15 days prior written notice thereof given to each member of record, which notice shall state the place, day, hour and purpose of the meeting and shall have included therein or enclosed therewith a copy or summary of the plan of merger or consolidation.

(b) Domestic approval.—The plan of merger or consolidation to form a surviving or new credit union, Federal credit union or out-of-State credit union shall be adopted upon receiving, if the credit union is not the surviving institution, the affirmative vote of at least a majority of the members voting thereon or upon receiving, if the credit union is the surviving institution, the affirmative vote of at least a majority of the board of directors voting thereon.

(c) Federal or out-of-State approval.—The plan of merger or consolidation shall be authorized, adopted or approved by each of the merging or



consolidating Federal credit unions and out-of-State credit unions in accordance with applicable Federal or State law.

§ 1105. Articles of merger or consolidation.

(a) General rule.—Upon the adoption, pursuant to the provisions of this chapter, of the plan of merger or consolidation by the credit unions, Federal credit unions and out-of-State credit unions desiring to merge or consolidate, articles of merger or consolidation shall be executed by each credit union, Federal credit union and out-of-State credit union by a duly authorized officer of each credit union, Federal credit union and out-of-State credit union and shall set forth:

(1) The name and exact location of the principal place of business of the surviving or new credit union, Federal credit union or out-of-State credit union.

(2) The time and place of the meeting of the board of directors at which the plan of merger or consolidation was proposed and, except where approval of the members is not required, the time and place of the meeting of the members of each credit union, Federal credit union and out-of-State credit union at which the plan of merger or consolidation was authorized, adopted or approved, the kind and period of notice given to the members and the total vote by which the plan was authorized, adopted or approved.

(3) In the case of a merger into a surviving credit union, any changes desired to be made in the articles of the surviving credit union, or, in the case of a consolidation into a new credit union, all of the statements required by this title to be set forth in the original articles in the case of the formation of a credit union.

(4) The number, names and addresses of the persons to be the first directors of the surviving or new credit union, Federal credit union or out-of-State credit union.

(5) The plan of merger or consolidation.

(b) Department of Banking review.—The articles of merger or consolidation shall be filed with the Department of Banking which, immediately upon receipt thereof, shall conduct such investigation as may be deemed necessary to ascertain from the best sources at its command:

(1) Whether, if the articles are articles of consolidation, the name of the proposed new credit union, Federal credit union or out-of-State credit union conforms with the requirements of law for the name of a credit union and whether it is the same as one already adopted or reserved by another corporation or person or is so similar thereto that it is likely to mislead the public.

(2) Whether, if the merger or consolidation includes one or more Federal credit unions, all requirements of the laws of the United States pertaining thereto have been complied with.

(3) Whether the interests of members and creditors are adequately protected.

(4) Whether the credit unions, including the surviving or new credit union, have met all of the requirements of this title and have violated none of its prohibitions applicable to a credit union incorporated under this title.

(5) Whether, if the merger or consolidation includes an out-of-State credit union, there is compliance with the applicable requirements of the law of the state of incorporation of the out-of-State credit union.

Within 60 days after receipt of the articles of merger or consolidation, the Department of Banking shall, upon the basis of the facts disclosed by its investigation, either approve or disapprove such articles.

(c) Approval action.—If the department approves the articles, it shall register its approval thereon and shall forthwith forward them to the Department of State for filing, and, immediately upon receipt thereof, the Department of State shall file the articles.

(d) Effect of merger or consolidation.—The merger or consolidation shall become effective immediately upon such filing, and the surviving or new credit union, Federal credit union or out-of-State credit union shall be vested with all the assets and shall have all the rights, privileges, immunities and franchises and shall be responsible for all the obligations of the merging or consolidating credit unions, Federal credit unions and out-of-State credit unions; but otherwise, if such surviving or new credit union shall be a Federal credit union or an out-of-State credit union, upon such filing by the Department of State, the surviving or new Federal credit union or out-of-State credit union shall no longer be subject to the provisions of this title other than, in the case of an out-of-State credit union, Chapter 15 (relating to out-of-State credit unions).

(e) Disapproval action.—If the Department of Banking shall disapprove the articles, it shall return them to the credit union, Federal credit union or out-of-State credit union from which they were received, stating the reasons for such disapproval.

(f) Cross reference.—See 15 Pa.C.S. § 134 (relating to docketing statement).

§ 1106. Supervisory mergers or consolidations by Department of Banking.

Notwithstanding any other provision of this title, the Department of Banking may require a merger or consolidation of a credit union which is insolvent or is in danger of insolvency with any other credit union, Federal credit union or out-of-State credit union or may authorize a credit union to purchase any of the assets of, or assume any of the liabilities and capital of, any other credit union, Federal credit union or out-of-State credit union if the department is satisfied that:

- (1) an emergency requiring expeditious action exists with respect to such a credit union;
- (2) other alternatives are not reasonably available; and
- (3) the public interest would best be served by approval of such merger, consolidation, purchase or assumption.

## CHAPTER 13 DISSOLUTION

Sec.

1301. Dissolution authorized.
1302. Approval of voluntary dissolution.
1303. Dissolution proceedings.

1304. Department of Banking supervision.

1305. Articles of dissolution.

§ 1301. Dissolution authorized.

Any credit union may elect to dissolve voluntarily and wind up its affairs in the manner provided in this chapter. However, if it shall appear to the Department of Banking, upon an examination of the business, assets and affairs of the credit union, that its assets will probably be insufficient to pay in full its members and creditors, it shall take possession of the business and property of the credit union and retain possession until its affairs are finally liquidated.

§ 1302. Approval of voluntary dissolution.

(a) General rule.—The procedure for voluntary dissolution shall be as follows:

(1) A plan of dissolution, setting forth in detail the number of liquidating trustees, which shall be one, three or five, to be elected by the members, the amount of the bond which shall be supplied by each of the liquidating trustees and the powers, duties and compensation of such trustees, shall be adopted by a vote of at least two-thirds of all directors of the credit union.

(2) A meeting of the membership shall be called for the purpose of acting on the plan of dissolution. Written notice setting forth the date and purpose of such meeting shall be furnished each member at least ten days prior to the date of the meeting. The plan of dissolution shall be adopted upon the affirmative vote of a majority of the entire membership of the credit union in person or by written ballot.

(3) Upon approval of the plan, the members shall forthwith proceed to elect the number of liquidating trustees provided for in the plan of dissolution. If more than one liquidating trustee is to be elected, each member shall have the right to multiply his vote by the number of trustees to be elected and cast the whole number of such votes for one candidate or distribute them among two or more candidates. The candidates receiving the highest number of votes up to the number of liquidating trustees to be chosen shall be elected.

(4) A certificate of election to dissolve signed by a duly authorized officer of the credit union shall be executed and delivered to the Department of Banking. The certificate shall set forth:

- (i) The name of the credit union.
- (ii) The exact location of its place of business.
- (iii) The names and addresses of its officers and directors.
- (iv) The number of directors voting for, and the number voting against, the proposed plan of voluntary dissolution.
- (v) The total number of members and the number of members voting for, and the number voting against, the proposed plan of voluntary dissolution.

(vi) The names and addresses of the proposed liquidating trustees and the number of votes received by every candidate for the position of liquidating trustee.

(vii) The amount of the bond required to be supplied by each trustee.

(viii) A verified statement by each of the proposed liquidating trustees stating that he is willing to serve as liquidating trustee, subject to the provisions of this chapter and to the terms of the proposed plan of voluntary dissolution, that he will, so far as the duty devolves upon him, diligently and honestly liquidate the affairs of the credit union, and will not knowingly violate or permit to be violated any of the provisions of this chapter or of the proposed plan of voluntary liquidation.

(ix) The proposed plan of voluntary dissolution.

(b) Department of Banking review.—Upon receipt of the certificate of election to dissolve, the Department of Banking shall conduct an examination or an investigation, or take such other action as it deems necessary, to determine whether to approve the plan of voluntary dissolution. If the department determines that the plan of voluntary dissolution does not prejudice the interests of members or creditors, it shall endorse its approval on the certificate of election to dissolve and send it to the Department of State for filing. If the Department of Banking disapproves the plan, it shall return the certificate to the credit union stating in detail its reasons for doing so.

(c) Effect of filing certificate.—Upon the filing by the Department of State of the certificate of election to dissolve, the Department of State shall furnish a copy thereof to the Department of Banking and the credit union. Upon such filing, the credit union shall cease to transact its business, and the liquidating trustee or trustees shall commence the liquidation of the credit union. The liquidating trustee or trustees shall thereafter be authorized to carry out, in his own name or in their own names as liquidating trustee or trustees of the credit union, the powers granted to him or them by the plan of voluntary dissolution and may sue and be sued for the purpose of determining and enforcing the debts due the credit union and its obligations.

(d) Cross reference.—See 15 Pa.C.S. § 134 (relating to docketing statement).

#### § 1303. Dissolution proceedings.

(a) Collection and distribution of assets.—The liquidating trustee or trustees shall proceed in the manner provided by the Department of Banking to gather the assets, determine the liabilities and distribute the assets of the credit union until its affairs are fully adjusted and wound up. Under this section the department shall set forth the order of the distribution of the assets. The provisions of this section on distribution of assets apply whether the dissolution is voluntary or involuntary.

(b) Proof of claims.—The liquidating trustee or trustees shall notify all creditors and members appearing on the records of the association, by notice sent to or given at the address appearing for such creditor or member on the records or, if no address appears there, at the last known address of the creditor or member, of the amount which the records show to be due such member or creditor. The liquidating trustee or trustees shall also advertise, for three successive weeks in a newspaper of general circulation and in a legal newspaper, if any, in the county in which the credit union is located, that the

credit union is liquidating pursuant to a plan of voluntary liquidation. The advertisement shall set forth a date not less than 90 days after the date of the first published advertisement before which all creditors or members must present their claims, under oath or affirmation, to the trustee or trustees or be bound by the amount shown on the records of the credit union to be due them. Thereafter, all claims shall be permanently barred.

(c) **Limitation period.**—Any claim which is rejected or disallowed by the trustee or trustees shall be barred unless an action is brought thereon within 90 days after mailing of the notice of rejection or disallowance.

§ 1304. **Department of Banking supervision.**

The Department of Banking shall continue to supervise the credit union, in the hands of the liquidating trustee or trustees, until the liquidation is complete and the affairs of the credit union are fully settled.

§ 1305. **Articles of dissolution.**

(a) **General rule.**—When, in the opinion of the Department of Banking, the liquidation of a credit union is complete and its affairs are fully settled, the Department of Banking shall execute and file in the Department of State articles of dissolution, which shall set forth:

(1) The name of the credit union.

(2) The statute under which the credit union was incorporated and the date of incorporation.

(3) A statement that the liquidation of the credit union is complete and its affairs are fully settled.

(b) **Filing procedures.**—A certificate or statement provided for by 15 Pa.C.S. § 139 (relating to tax clearance of certain fundamental transactions) shall not be required and the Department of State shall not charge a fee in connection with the filing of articles of dissolution under this section. See 15 Pa.C.S. § 134 (relating to docketing statement).

(c) **Effect.**—Upon the filing of the articles of dissolution in the Department of State, the existence of the credit union shall cease.

## CHAPTER 15 OUT-OF-STATE CREDIT UNIONS

Sec.

1501. Authorization to do business.

1502. Covenants by applicant.

1503. Supervision by Department of Banking.

1504. Revocation of authorization to do business.

§ 1501. **Authorization to do business.**

(a) **General rule.**—A credit union organized in another state may conduct business as a credit union in this Commonwealth with the approval of the Department of Banking as long as a credit union chartered under the laws of this Commonwealth is permitted to do business in the state in which the credit union is organized.

(b) **Findings.**—To grant approval the department must find that the out-of-State credit union:

- (1) Is a credit union organized under a statute similar to this title.
- (2) Is financially solvent.
- (3) Has required account insurance acceptable to the department.
- (4) Is effectively examined and supervised by the regulatory authority of the state in which it is organized.
- (5) Needs to conduct business in this Commonwealth to adequately serve its members in this Commonwealth.

§ 1502. Covenants by applicant.

To conduct business in this Commonwealth, an out-of-State credit union must agree to:

- (1) Grant loans at rates not higher than those permitted for credit unions incorporated under this title.
- (2) Comply with the same consumer protection provisions that apply to credit unions incorporated under this title.
- (3) Accept service of process as contemplated by 42 Pa.C.S. § 5301(a)(2)(i) (relating to persons).

§ 1503. Supervision by Department of Banking.

(a) General rule.—The Department of Banking may examine an out-of-State credit union:

- (1) to the same extent that a Pennsylvania credit union is examined by the regulatory agency with jurisdiction over credit unions in the state in which the out-of-State credit union is incorporated; or
- (2) pursuant to an agreement between the department and the regulatory agency with jurisdiction over credit unions in the state in which the out-of-State credit union is incorporated.

(b) Reports of other examinations.—The department may require, as a condition for permitting an out-of-State credit union to operate or to continue to operate in this Commonwealth, that the regulatory agency with jurisdiction over the out-of-State credit union furnish reports of examination regarding the out-of-State credit union to the department.

§ 1504. Revocation of authorization to do business.

The Department of Banking may revoke the approval of an out-of-State credit union to conduct business as a credit union in this Commonwealth if the department makes any of the following findings:

- (1) The out-of-State credit union no longer meets the requirements of section 1501 (relating to authorization to do business).
- (2) The out-of-State credit union has violated Pennsylvania statutes or regulations or orders of the department.
- (3) The out-of-State credit union has engaged in a pattern of unsafe or unsound credit union practices.
- (4) Continued operation by the out-of-State credit union is likely to have a substantially adverse impact on the financial, economic or other interests of residents of this Commonwealth served by the out-of-State credit union.

Section 303. Amendment of Title 20.

Sections 726 and 727 of Title 20 are amended to read:

§ 726. Venue of nonprofit corporations.

Except as otherwise [specifically provided in Part III of Title 15 (relating to corporations not-for-profit)] *prescribed by general rules*, in exercising the jurisdiction [conferred upon orphans' court divisions by rules of judicial administration] *of the court* over the property or affairs of a [nonprofit] domestic or foreign *nonprofit* corporation, the venue shall be in the county where the registered office of the corporation is located *or deemed to be located for venue purposes* or, in the absence of a registered office within this Commonwealth, in a county where any property held or controlled by the nonprofit corporation is located.

§ 727. Venue of cemetery companies.

Except as otherwise [specifically] provided in [Part III of] Title [15] 9 (relating to [corporations not-for-profit]) *burial grounds*) *or prescribed by general rules*, in exercising the jurisdiction [conferred upon orphans' court divisions by rules of judicial administration] *of the court* over ~~the property or~~ affairs of a domestic or foreign cemetery company in matters relating to burial grounds or to property held for the burial of the dead or for the care or adornment of burial grounds, the venue shall be in the county where the burial ground, or any part thereof is located or, in the absence of any involved burial grounds within this Commonwealth, in a county where any property held or controlled by the cemetery company is located.

Section 304. Amendment of Title 22.

Section 501(a) of Title 22 is amended to read:

§ 501. Appointment by nonprofit corporations.

(a) Appointment authorized.—Any nonprofit corporation, as defined in [Part III of Title] 15 *Pa.C.S. Pt. II Subpt. C* (relating to *nonprofit* corporations [not-for-profit]) maintaining a cemetery or any buildings or grounds open to the public, or organized for the prevention of cruelty to children or aged persons or animals, or one or more of such purposes, may apply to the court of common pleas of the county of the registered office of the corporation for the appointment of such persons as the corporation may designate to act as policemen for the corporation. The court, upon such application, may *by order [and decree] appoint* such persons, or as many of them as it may deem proper and necessary, to be such policemen.

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Section 305. Amendment of Title 24.

Title 24 is amended by adding parts to read:

PART I  
PRELIMINARY PROVISIONS

Chapter

1. General Provisions

CHAPTER 1  
GENERAL PROVISIONS

Sec.

102. Definitions.

§ 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Certificate of authority.” An instrument in writing issued by the department authorizing a person to engage in this Commonwealth in the business or occupation specified in the instrument.

“Department.” The Department of Education of the Commonwealth.

“State board.” The State Board of Education of the Commonwealth.

PART III  
HIGHER EDUCATION

Chapter

65. Private Colleges, Universities and Seminaries

CHAPTER 65  
PRIVATE COLLEGES, UNIVERSITIES AND SEMINARIES

Sec.

6501. Applicability of chapter.

6502. State board to prescribe standards.

6503. Certification of institutions.

6504. Fundamental changes.

6505. Power to confer degrees.

6506. Visitation of institutions and revocation of authority.

6507. Institution names to be approved by department.

6508. Restraining use of term “college,” “university” or “seminary.”

6509. Penalty for violation of chapter.

§ 6501. Applicability of chapter.

(a) General rule.—This chapter applies to, and the word “institution” in this chapter means, any institution which applies to itself, either as part of its name or in any other manner, the designation of “college,” “university” or “seminary” in such a way as to give the impression that it is an educational institution conforming to the standards and qualifications prescribed by the State board. Nothing in this chapter shall be construed to expand the powers of the State board with respect to any institution heretofore existing.

(b) Exceptions.—Notwithstanding subsection (a), this chapter does not apply to any:

(1) Incorporated or unincorporated theological seminary without power to confer degrees.

(2) Public instrumentality subject to the policy supervision and direction of the State board.

§ 6502. State board to prescribe standards.

(a) General rule.—The State board shall prescribe standards and qualifications for all institutions entitled to apply to themselves the designation of “college,” “university” or “seminary.”



(b) Minimum standards.—No institution shall be authorized to confer degrees in the arts, pure and applied science, philosophy, literature, law, medicine and theology, or any of them, unless it has:

(1) A minimum protective endowment of at least \$500,000, beyond all indebtedness and assets invested in buildings and apparatus for the exclusive purpose of promoting instruction, except that, in the case of tax-supported institutions or those maintained by religious or other eleemosynary organizations, financial support or contributed services equivalent in value to the endowment herein specified may be substituted for such endowment.

(2) A faculty consisting of at least eight regular professors who devote all their time to the instruction of its higher education classes, unless the institution is devoted to a specific subject in the arts, archaeology, literature or science (medical and law schools excepted), in which case the faculty shall consist of at least three regular professors who devote all their time to the instruction in the special branch for which the institution is established, and two or more instructors or fellows in the particular branch, who shall be provided to assist in the instruction to be given the students for the promotion of original investigation and in the development and growth of the special branch of science to which such institution may be devoted.

§ 6503. Certification of institutions.

(a) General rule.—No person shall apply to itself, either as part of its name or in any other manner, the designation of “college,” “university” or “seminary” in such a way as to give the impression that it is an educational institution conforming to the standards and qualifications prescribed by the State board unless it shall have received from the department a certificate of authority authorizing the institution to use such designation, and, if the institution is authorized to confer degrees, specifying the degrees which the institution is authorized to confer.

(b) Exemptions.—Subsection (a) does not apply to:

(1) Any:

(i) Nonprofit corporation incorporated with the approval of the department or the former Department of Public Instruction under the former provisions of sections 211 and 312 of the Nonprofit Corporation Law of 1933, or otherwise incorporated with the power to confer degrees under corresponding provisions of prior law.

(ii) Foreign nonprofit corporation that received a certificate of authority as a qualified foreign corporation from the Department of State with the approval of the department or the former Department of Public Instruction under the former provisions of section 902(4) of the Nonprofit Corporation Law of 1933, or otherwise admitted to do business with the power to confer degrees under corresponding provisions of prior law.

For the purposes of this chapter, such a corporation shall be deemed to be a holder of a certificate of authority issued under this section authorizing the conferring of those degrees that the institution was authorized by law to confer immediately prior to the effective date of this chapter.

(2) Any corporation incorporated prior to September 1, 1937, the corporate name of which, or any unincorporated person then conducting any educational institution, the trade or fictitious name of which, included the designation "college" or "university."

(c) Form of application.—Every application for a certificate of authority under this section shall be made to the department in writing and shall be in such form and contain such information as the regulations of the department may require.

(d) Standards for issuance of certificate.—A certificate of authority shall be issued by order of the department only if and when the department finds and determines that:

(1) The application complies with the provisions of this chapter, the regulations of the department thereunder and the standards and qualifications for institutions prescribed by the State board thereunder.

(2) The courses of instruction, the standards of admission to the institution and the composition of the faculty appear to be sufficient and to conform to the requirements of this chapter.

(3) The educational needs of the particular locality in which the institution is to be situated and of the Commonwealth at large are likely to be furthered by the granting of the application.

(e) Procedure.—For the purpose of enabling the department to make the finding or determination required by subsection (d), the department shall, by publication of notice in the Pennsylvania Bulletin, afford reasonable opportunity for hearing, which shall be public, and, before or after any such hearing, it may make such inquiries, audits and investigations, and may require the submission of such supplemental studies and information, as it may deem necessary or proper to enable it to reach a finding or determination. The department, in issuing a certificate of authority, may impose such conditions as it may deem to be just and reasonable. In every case, the department shall make a finding or determination in writing stating whether or not the application has been approved and, if it has been approved in part only, specifying the part which has been approved and the part which has been denied. Any holder of a certificate of authority exercising the authority conferred thereby shall be deemed to have waived any and all objections to the terms and conditions of such certificate.

(f) Judicial review.—Orders of the department upon an application for a certificate of authority under this section shall be subject to judicial review in the manner and within the time provided or prescribed by law.

#### § 6504. Fundamental changes.

(a) General rule.—It is unlawful for any institution holding a certificate of authority under this chapter authorizing the conferring of degrees to amend its articles of incorporation, to merge or consolidate with any other corporation or to divide or convert without first securing the approval of the department with respect thereto.

(b) Form of application.—Every application for approval of a fundamental change under this section shall be made to the department in writing and shall be in such form and shall contain such information as the department shall require.

(c) Standards for approval.—The amendment of articles, merger, consolidation, division or conversion shall be approved by order of the department only if and when the department finds and determines that such fundamental change conforms to law, including the regulations of the department under this chapter, and the standards and qualifications for institutions prescribed by the State board thereunder, and will result in an institution which, under the then current provisions of this chapter and standards and qualifications for institutions of the State board thereunder, would be eligible to receive a certificate of authority as an institution.

(d) Procedure.—The proceedings before the department shall be subject to the provisions of section 6503(e) (relating to procedure).

(e) Judicial review.—Orders of the department upon an application for approval under this section shall be subject to judicial review in the manner and within the time provided or prescribed by law.

§ 6505. Power to confer degrees.

A nonprofit corporation as defined in Title 15 (relating to corporations and unincorporated associations) which receives a certificate of authority under this chapter authorizing the conferring of degrees may confer baccalaureate degrees in the arts, science, philosophy or literature, but only upon students who have completed a college or university course normally covering four years, or such other degrees at the associate, baccalaureate or advanced level as may be specified in the certificate of authority. The qualifications of admission to these four-year courses, or to advanced classes in these courses, shall be not less than four years of academic or high school preparation, or its equivalent, and shall be subject to the standards promulgated by the State board.

§ 6506. Visitation of institutions and revocation of authority.

(a) General rule.—Any institution holding a certificate of authority under this chapter authorizing the conferring of degrees shall be subject to visitation and inspection by representatives of the department. If any such institution shall fail to maintain the standards and qualifications prescribed by the State board under this chapter, the department may, after notice to the institution and opportunity for hearing, suspend or revoke the certificate of authority of the institution.

(b) Judicial review.—Orders of the department in any proceeding relating to the suspension or revocation of a certificate of authority of an institution under this section shall be subject to judicial review in the manner and within the time provided or prescribed by law.

§ 6507. Institution names to be approved by department.

The Department of State shall not approve any corporate name or register any assumed or fictitious or other name, including the words “college,” “university” or “seminary,” used in such a way as to give the impression that the proprietor of such name is an educational institution conforming to the standards and qualifications prescribed by the State board, unless the application for incorporation, qualification or change of name or the application for registration is accompanied by a certificate from the department that the corporation or proposed corporation or the person or persons applying for registration are entitled to use such designation.

§ 6508. Restraining use of term “college,” “university” or “seminary.”

Upon the application of the Attorney General, any court having jurisdiction shall, in a proper case where a violation of this chapter is shown, grant an injunction restraining the use of the designation of “college,” “university” or “seminary.”

§ 6509. Penalty for violation of chapter.

A person who violates this chapter commits a summary offense.

Section 306. Amendment of Title 42.

(a) Subchapter F of Chapter 83 of Title 42, including any amendments enacted by the present General Assembly, is repealed.

(b) Title 42 is amended by adding a section to read:

§ 8332.5. *Corporate representatives.*

*(a) General rule.—The liability of an individual shall be limited to the extent expressly provided by or pursuant to Title 15 (relating to corporations and unincorporated associations). See 15 Pa.C.S. Ch. 5 Subch. B (relating to fiduciary duty and indemnification), Ch. 17 Subch. B (relating to fiduciary duty) and Ch. 57 Subch. B (relating to fiduciary duty).*

*(b) Certain governmental corporations.—An individual who is a director, officer or employee of a governmental corporation and who is not entitled to immunity under Chapter 85 (relating to matters affecting government units) may assert any applicable immunity under 15 Pa.C.S. Ch. 57 Subch. B to the same extent as if the governmental corporation were a nonprofit corporation which had elected the maximum immunity available under such subchapter.*

Section 307. Amendment of Title 54.

Section 311(f) of Title 54 is amended to read:

§ 311. Registration.

\* \* \*

(f) Required approvals.—The fictitious name shall not contain:

(1) The words “college,” “university” or “seminary” when used in such a way as to imply that the entity is an educational institution conforming to the standards and qualifications prescribed by the State Board of Education unless there is submitted a certificate from the Department of Education certifying that the entity is entitled to use such designation.

(2) The words “engineer” or “engineering” or “surveyor” or “surveying” or any other word implying that any form of the practice of engineering or surveying, as defined in the act of May 23, 1945 (P.L.913, No.367), known as the [“]Professional Engineers Registration Law,[”] is provided unless at least one of the parties to the registration has been properly registered with the State Registration Board for Professional Engineers and there is submitted to the department a certificate from the board to that effect.

(3) The words “bank,” “banking,” “banker” or “trust” or any other word implying that the entity is a bank, bank and trust company, savings bank, private bank or trust company, as defined in the act of November 30, 1965 (P.L.847, No.356), known as the [“]Banking Code of 1965,[”] unless approved by the Department of Banking.

(4) The word "cooperative" or any abbreviation thereof unless it is subject to 15 Pa.C.S. Pt. II Subpt. D (relating to cooperative corporations) [or a statute thereby saved from repeal].

(5) *The words "architect" or "architecture" or any other word implying that any form of the practice of architecture, as defined in the act of December 14, 1982 (P.L.1227, No.281), known as the Architects Licensure Law, is provided unless at least one of the parties to the registration has been properly registered with the Architects Licensure Board in the practice of architecture and there is submitted to the department a certificate from the board to that effect.*

(6) *The words "credit union" or any other words implying that the entity is a credit union as defined in 17 Pa.C.S. § 102 (relating to application of title), unless approved by the Department of Banking.*

(7) *The words "annuity," "assurance," "beneficial," "bond," "casualty," "endowment," "fidelity," "fraternal," "guaranty," "indemnity," "insurance," "insurer," "reassurance," "reinsurance," "surety" or "title" when used in such a way as to imply that the entity is engaged in the business of writing insurance or reinsurance as principal or any other words of like purport unless there is submitted a certificate from another jurisdiction certifying that the entity is duly licensed therein as an insurance company or a certificate from the Insurance Department certifying that it has no objection to the use by the entity of such designation.*

(8) *The words "electric cooperative" unless it is subject to 15 Pa.C.S. Ch. 73 (relating to electric cooperative corporations).*

(9) Any word or phrase not permitted by law to be filed under this chapter without governmental consent unless there is submitted to the department written evidence of such consent.

\* \* \*

#### Section 308. Amendment of Title 69.

The heading of Title 69 is amended to read:

### TITLE 69 [SAVING AND VALIDATING PROVISIONS] SAVINGS ASSOCIATIONS

#### Section 309. Conforming cross references in unconsolidated statutes.

(a) Insurance Company Law.—References in the following act enacted prior to July 1, 1971 (see 1 Pa.C.S. § 1937 (relating to references to statutes and regulations)), to section 337.5 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, shall be deemed to be a reference to section 205 of this act and 15 Pa.C.S. § 1924(b)(1)(ii), and such act is repealed to the extent inconsistent with this subsection: section 337.6 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

(b) Professional Association Act.—References in the following act enacted prior to July 1, 1971 (see 1 Pa.C.S. § 1937 (relating to references to statutes and regulations)), to the act of August 7, 1961 (P.L.941, No.416), known as the Professional Association Act, shall be deemed to be a reference

to 15 Pa.C.S. Ch. 93 (relating to professional associations), and such act is repealed to the extent inconsistent with this subsection: sections 2, 8.4 and 8.6 of the act of May 26, 1947 (P.L.318, No.140), known as The C.P.A. Law.

(c) Electric Cooperative Corporation Act.—References in the following act enacted prior to July 1, 1971 (see 1 Pa.C.S. § 1937 (relating to references to statutes and regulations)), to the act of June 21, 1937 (P.L.1969, No.389), known as the Electric Cooperative Corporation Act, shall be deemed to be a reference to 15 Pa.C.S. Ch. 73 Subchs. A (relating to preliminary provisions) and B (relating to powers, duties and safeguards), and such act is repealed to the extent inconsistent with this subsection: sections 2471.1(b) and 2471.2(k) of the act of February 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code, added by section 1 of the act of December 30, 1982 (P.L.1465, No.333).

#### DIVISION IV MISCELLANEOUS PROVISIONS

Section 401. Repeals.

(a) Except as otherwise expressly provided in this subsection, the following acts and parts of acts are repealed:

Act of May 5, 1899 (P.L.253, No.148), entitled “An act to allow Medical Colleges of the Commonwealth of Pennsylvania to confer diplomas in public health.”

Subparagraphs (ii) through (ix) of paragraph (1) of section 618-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929. Notwithstanding 1 Pa.C.S. § 1952 (relating to effect of separate amendments on code provisions enacted by same General Assembly), this act shall control over any other act of the present General Assembly which relates to the subject matter of 15 Pa.C.S. Ch. 1 Subch. C (relating to Corporation Bureau and UCC fees).

Section 730 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, insofar as it applies to insurance corporations.

Act of May 5, 1933 (P.L.289, No.105), known as the Nonprofit Corporation Law of 1933.

Act of May 7, 1937 (P.L.585, No.150), entitled, as amended, “An act prohibiting the use of the designation of “college” by any institution not conforming to the standards of a college prescribed by the State Board of Education; and providing for injunctions, and penalties.”

Act of June 21, 1937 (P.L.1969, No.389), known as the Electric Cooperative Corporation Act.

Section 513 of the act of December 14, 1967 (P.L.746, No.345), known as the Savings Association Code of 1967.

Act of June 12, 1968 (P.L.173, No.94), known as the Cooperative Agricultural Association Act.

Last sentence of section 403(a)(3) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

Act of July 12, 1972 (P.L.769, No.182), entitled "An act relating to certain documents, prescribing the fees for the Department of State and certain public officers, permitting the filing of certain documents appropriating the exclusive right to a corporate name, repealing the excise tax on the capital stock of domestic corporations and repealing inconsistent acts."

Sections 3, 4 and 8 of the act of November 15, 1972 (P.L.1063, No.271), entitled "An act amending the act of November 25, 1970 (P.L.707, No.230), entitled 'An act codifying and compiling a part of the law of the Commonwealth,' adding provisions relating to burial grounds, corporations, including corporations not-for-profit, educational institutions, private police, certain charitable or eleemosynary institutions, certain nonprofit insurers, service of process on certain nonresident persons, names, prescribing penalties and making repeals."

Act of July 30, 1975 (P.L.113, No.57), known as the Retail Electric Supplier Unincorporated Area Certified Territory Act.

As much as reads "and acknowledge before an officer competent to take acknowledgment of deeds," of the second sentence of section 201 of the act of July 29, 1977 (P.L.105, No.38), known as the Fraternal Benefit Society Code. If the Insurance Commissioner shall approve under the act the incorporation, merger, consolidation, conversion or division of any fraternal benefit society or any other amendment of articles or other fundamental change in the charter of any society under the act, he shall deliver the papers relating thereto to the Department of State. The provisions of sections 204 and 205 of the act shall not apply to any fraternal benefit society incorporated under the provisions of the Nonprofit Corporation Law of 1972 prior to January 29, 1978. The provisions of the act shall control over Title 15 of the Pennsylvania Consolidated Statutes (relating to corporations and unincorporated associations) as provided in 15 Pa.C.S. § 103 (relating to subordination of title to regulatory laws).

Sections 105, 301 and 304(a)(6) and (b) of the act of December 21, 1988 (P.L.1444, No.177), known as the General Association Act of 1988.

(b) The following acts and parts of acts applicable to insurance companies and corporations are repealed:

Act of November 27, 1865 (1866 P.L.1228, No.1119), entitled "An act relating to the organization and meetings of certain corporations, incorporated under the laws of this Commonwealth."

Act of April 15, 1869 (P.L.29, No.30), entitled "An act requiring a majority of the directors or managers of corporations to constitute a quorum."

Act of May 15, 1874 (P.L.186, No.118), entitled "An act to authorize the issuing of letters patent to certain corporations."

Act of June 17, 1887 (P.L.411, No.274), entitled "A further supplement to an act, entitled 'An act to provide for the incorporation and regulation of certain corporations,' approved April twenty-ninth, one thousand eight hundred and seventy-four, providing for the further regulation of such corporations."

Act of May 20, 1891 (P.L.101, No.77), entitled "An act authorizing salaried officers of private or business corporations to concurrently serve as directors therein."

Act of April 19, 1901 (P.L.80, No.51), entitled "An act to regulate the number of directors in corporations chartered under the laws of this Commonwealth."

Act of July 2, 1901 (P.L.603, No.298), entitled "An act authorizing corporations, organized for profit, to purchase, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of, the shares of capital stock of, or any bonds, securities or evidences of indebtedness created by, any other corporation."

Act of March 5, 1903 (P.L.14, No.17), entitled "An act concerning proxies, authorizing representation and voting of shares of capital stock of corporations at meetings and elections thereof."

Act of March 16, 1905 (P.L.42, No.26), entitled "An act providing for the voting of shares of stock in corporations in this Commonwealth, held by executors, administrators, guardians, and trustees, and the manner of voting the same."

Act of May 28, 1913 (P.L.336, No.222), entitled "An act authorizing corporations of this Commonwealth to declare, at any time or times, dividends out of net profits; and prescribing the time within which the same shall be paid."

Act of March 30, 1921 (P.L.54, No.28), entitled "An act permitting corporations to change the date of their annual meeting as fixed by its charter."

Sections 104, 106, 203, 204, 205 (except the second sentence), 207, 208, 209, 210 (insofar as it prohibits the use of shares without par value), 211, 213, 214, 301.2, 302, 303, 304, 305, 306, 307, first and second paragraphs of section 308, sections 309, 310, 311, 312, 313, first paragraph and as much of the first sentence of the second paragraph as reads as follows "provided for in the by-laws" of section 314, sections 315, 316, 322 (except subsections (d) and (e)), 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 337.5, 338, 340, 341, 343, 344, 352, 355, 532, 607 (insofar as it prohibits the use of shares without par value), 608, 751 and 752 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921. The provisions of The Insurance Company Law of 1921 that have not been repealed by this act shall control over the provisions of Title 15.

Act of March 15, 1923 (P.L.10, No.8), entitled "An act relating to the recording of certificates of incorporation of domestic corporations; providing for the recording of certified copies thereof in certain cases; validating the recording of such certified copies heretofore recorded; and making the record of such certified copies competent evidence for all purposes."

Act of July 12, 1923 (P.L.1083, No.443), entitled "An act authorizing corporations to issue stock at a price in excess of the par value thereof."

Act of April 7, 1925 (P.L.183, No.131), entitled "An act providing that certificates of association and articles of incorporation or of any improvements, amendments, or alterations thereto may be acknowledged and sworn or affirmed to before a notary public or justice of the peace; validating such acknowledgments made prior to the approval of this act."

Act of May 12, 1925 (P.L.615, No.329), entitled "An act pertaining to corporations organized or doing business within the Commonwealth; limit-



ing the operation of their by-laws; and providing for the execution of contracts, notes, mortgages, et cetera, by such corporations.”

Act of May 13, 1925 (P.L.679, No.368), entitled, as amended, “An act authorizing corporations to issue stock to their employes and to employes of their subsidiaries, and authorizing such an issue without first offering such shares to the stockholders, subject to certain limitations.”

Act of April 27, 1927 (P.L.404, No.260), entitled “An act prohibiting corporations from pleading usury as a defense.”

Act of April 26, 1929 (P.L.794, No.341), entitled “An act relating to mutual fire insurance companies incorporated under any general or special law of the Commonwealth of Pennsylvania; empowering any such company to regulate the number of, and the manner of nominating directors, managers, or trustees thereof; and providing a method for fixing the time of annual meetings of members of any such company.”

Act of April 30, 1929 (P.L.903, No.401), entitled “An act relating to corporations; providing methods of determining what stockholders shall be entitled to vote at meetings, or to receive dividends, or allotments of rights, or to exercise rights; and the effect thereon of transfers of stock within sixty days of any election or meeting.”

Act of May 16, 1945 (P.L.594, No.249), entitled, as amended, “An act authorizing and empowering any corporation for profit, and any mutual insurance company, mutual savings bank, or other corporation on a mutual plan heretofore or hereafter organized under any general or special law of this Commonwealth, by action of its board of directors to make contributions for public and charitable purposes; and ratifying certain contributions.”

Section 5 of the act of June 28, 1951 (P.L.941, No.184), entitled “An act authorizing certain existing beneficial or protective societies, heretofore incorporated, to reincorporate, or to merge and reincorporate, as limited life insurance companies, for the purpose of making insurance upon the health of individuals and against personal injury and disablement and death, including endowment insurance; regulating such corporations, and limiting the amounts for which such corporations may issue policies.”

Section 1 of the act of August 19, 1953 (P.L.1075, No.280), entitled “An act authorizing corporations to grant stock options, pensions and allowances, under certain circumstances; and validating stock options, pensions and allowances heretofore granted.”

Act of August 14, 1963 (P.L.910, No.434), entitled “An act authorizing certain domestic stock insurance companies to issue stock having a par value of not less than one dollar per share, and validating certain stock which any such corporation may heretofore have been authorized to issue or issued.”

(c) All acts and parts of acts relating to limited life insurance companies are repealed insofar as inconsistent with this act.

(d) The act of September 20, 1961 (P.L.1548, No.658), known as the Credit Union Act, is repealed.

(e) All other parts of those acts which are specified in this section and all other acts and parts of acts are repealed insofar as they are in any manner inconsistent with this act.

**Section 402. Preparation of act for printing.**

In editing and preparing this act for printing in the Laws of Pennsylvania, or pursuant to 1 Pa.C.S. Ch. 5 (relating to official publication of the consolidated statutes), the Director of the Legislative Reference Bureau shall insert the date of enactment, pamphlet law page number and act number of this act in the appropriate blanks of the enrolled bill version of this act, without obtaining the approvals or marking the notations required under 1 Pa.C.S. § 1105 (relating to editing statutes for printing).

**Section 403. Transitional provision.**

The Department of State is authorized to adopt and publish one or more forms of temporary docketing statement under 15 Pa.C.S. § 134 (relating to docketing statement) and other temporary forms necessary or appropriate for the implementation of Title 15 (relating to corporations and unincorporated associations) upon compliance with the requirements of Title 15 and Title 45 (relating to legal notices) only. Any such temporary docketing statement or form shall automatically be deemed withdrawn on December 31, 1991, unless, prior thereto, it shall have been superseded by a permanent docketing statement or form promulgated in the manner required by law.

**Section 404. Effective dates and applicability.**

(a) Effective dates.—This act shall take effect immediately, except that:

(1) Subchapter C of Chapter 1 of Title 15 (relating to Corporation Bureau and UCC fees) shall take effect on the first day of the month following the month of enactment of this act.

(2) 15 Pa.C.S. § 1702(c) and the amendments to 15 Pa.C.S. §§ 1906 and 1924(b) shall be retroactive to October 1, 1989.

(3) The amendments to 15 Pa.C.S. § 5758(b) shall be retroactive to February 13, 1972.

(4) 15 Pa.C.S. §§ 135(c)(2) and 1901(a)(2) and Chapter 75 of Title 15 and section 401(a), insofar as it repeals the act of June 12, 1968 (P.L.173, No.94), known as the Cooperative Agricultural Association Act, shall take effect in four months.

(5) The amendments to Chapter 77 of Title 15 shall be retroactive to June 19, 1989.

(6) The amendments to 15 Pa.C.S. § 8562(b) shall take effect in four months and shall not apply to any certificate of partnership interest issued or issuable on the effective date of such amendments.

(7) Title 17 (relating to credit unions) and section 401(d) of this act shall take effect in two months.

(8) The expansion of the scope of Subpart B of Part II of Title 15 to include insurance corporations as defined in section 201 and all related changes in law affecting insurance corporations, including the repeals provided in section 401(b), shall take effect in six months.

(b) Applicability.—The provisions of Title 15 that are derived from former 42 Pa.C.S. Ch. 83 Subch. F (relating to corporate directors' liability):

(1) shall not be construed to repeal or otherwise affect or impair 15 Pa.C.S. § 1728 (relating to interested directors or officers; quorum) or 2538 (relating to approval of transactions with interested shareholders) or

42 Pa.C.S. § 8332.2 (relating to officer, director, or trustee of nonprofit organization negligence standard); and

(2) shall not apply to:

(i) any actions filed prior to January 27, 1987, nor to any breach of performance of duty or any failure of performance of duty by any director or officer of a business corporation occurring prior to that date; or

(ii) any actions filed against or any breach of performance of duty or any failure of performance of duty by any director or officer of any other domestic corporation for profit or not-for-profit occurring prior to the date that such corporation first became or becomes subject to former 42 Pa.C.S. Ch. 83 Subch. F or 15 Pa.C.S. Ch. 5 Subch. B (relating to indemnification and corporate directors' liability).

#### SOURCE NOTES

**Section 102:** The provisions repealed by this section are supplied by this act as follows:

<b>Official Citation</b>	<b>Superseding Provision</b>
15 Pa.C.S. §511(a)	15 Pa.C.S. §§512(a), (b), 5712(a), (b)
(b)	15 Pa.C.S. §§516(a), 5716(a)
(c)	15 Pa.C.S. §§516(b), 5716(b)
(d)	15 Pa.C.S. §§515(a), (b), 517, 5715(a), (b), 5717
(e)	15 Pa.C.S. §§515(c), 5715(c)
(f)	15 Pa.C.S. §§515(d), 5715(d)
(g)	15 Pa.C.S. §§511(b), 5711(b)
(h)	15 Pa.C.S. §§515(e), 5715(e)
(i)	Omitted
15 Pa.C.S. §512(a)	15 Pa.C.S. §§513(a), 5713(a)
(b)	15 Pa.C.S. §§513(b), 5713(b)
15 Pa.C.S. §513	15 Pa.C.S. §§518, 5718
15 Pa.C.S. §1721(a)	15 Pa.C.S. §1721
(b)	15 Pa.C.S. §1712(a), (b)
(c)	15 Pa.C.S. §1716(a)
(d)	15 Pa.C.S. §1716(b)
(e)	15 Pa.C.S. §§1715(a), (b), 1717
(f)	15 Pa.C.S. §1715(c)
(g)	15 Pa.C.S. §1715(d)
(h)	15 Pa.C.S. §1713
(i)	15 Pa.C.S. §1714
(j)	15 Pa.C.S. §1711
(k)	15 Pa.C.S. §1715(e)
(l)	Omitted
15 Pa.C.S. §1732(c)	15 Pa.C.S. §1712(c)
15 Pa.C.S. §1770	15 Pa.C.S. §2538
15 Pa.C.S. §2701(a)	15 Pa.C.S. §2701(a)

	(b)	15 Pa.C.S. §2701(b)
	(c)	15 Pa.C.S. §§2702, 2703
15 Pa.C.S. §2702(a)		15 Pa.C.S. §2704(a)
	(b)	15 Pa.C.S. §2704(b)
15 Pa.C.S. §2703(a)		15 Pa.C.S. §2704(b)
	(b)	15 Pa.C.S. §2705
15 Pa.C.S. §2704		15 Pa.C.S. §2704(c)
15 Pa.C.S. §2711		15 Pa.C.S. §2721
15 Pa.C.S. §2712		15 Pa.C.S. §2722
15 Pa.C.S. §2721		15 Pa.C.S. §2711
15 Pa.C.S. §2722		15 Pa.C.S. §2712
15 Pa.C.S. §5303		15 Pa.C.S. §5303
15 Pa.C.S. §5305		15 Pa.C.S. §5305
15 Pa.C.S. §5702.1		15 Pa.C.S. §5702(d), (e), (f)
15 Pa.C.S. §5721		15 Pa.C.S. §5721
15 Pa.C.S. §5974.1		Omitted
15 Pa.C.S. §5974.2		Omitted
15 Pa.C.S. §7301		15 Pa.C.S. Ch.73
15 Pa.C.S. §7501		15 Pa.C.S. Ch.75

The source notes for the amended or added provisions of Title 15 are as follows:

**15 Pa.C.S. §102:** The last sentence of the definition of “association” is new. Definitions of “corporation for profit” and “corporation not-for-profit” patterned after 15 Pa.C.S. §1103. Definitions of “credit union” and “insurance corporation” conformed to new 17 Pa.C.S. §102 and 15 Pa.C.S. §3102, respectively. The definitions of “electing partnership” and “representative” are required by 15 Pa.C.S. §§8103 and 9506, respectively.

**15 Pa.C.S. §105:** Subsection (a) is derived from act of July 12, 1972 (P.L.769, No.182) (former 71 P.S. §803.1 et seq.).

**15 Pa.C.S. §109:** The provisions of 15 Pa.C.S. §§108 and 109 are clarified by providing for the filing under the latter section of a statement of termination of commercial registered office.

**15 Pa.C.S. §131:** Conforming change.

**15 Pa.C.S. §133:** Reference to Title 13 in the first sentence of subsection (a) and the balance of subsection (a) are new.

**15 Pa.C.S. §134:** Reference in second sentence of subsection (a) to execution of docketing statement changed to submission of the docketing statement.

**15 Pa.C.S. §135:** Paragraphs (a)(7) and (c)(2) and subsection (d) are new. The amendment to paragraph (c)(1) deletes redundant language. See 15 Pa.C.S. §131.

**15 Pa.C.S. §136:** Provision in subsection (a) permitting a person filing a document to request that it be filed at a later date omitted in light of subsection (c). Reference in paragraph (b)(2) to submission of evidence that a name has been reserved is new. Last sentence of paragraph (b)(2) is new.

**15 Pa.C.S. §140:** New.

**15 Pa.C.S. §151:** Subsection (a) is patterned after act of July 1, 1978 (P.L.700, No.124), §101 (63 P.S. §1401-101). Subsection (b) is derived from act of July 12, 1972 (P.L.769, No.182), §1 (former 71 P.S. §803.1).

**15 Pa.C.S. §152:** Definition of "ancillary transaction" is a generalization of act of July 12, 1972 (P.L.769, No.182), §2 (former 71 P.S. §803.2).

**15 Pa.C.S. §153:** Derived generally from act of July 12, 1972 (P.L.769, No.182), §§3 through 5 (former 71 P.S. §§803.3 through 803.5). Subsection (a)(13) is derived from act of December 21, 1988 (P.L.1444, No.177), §105 (15 P.S. §20105). Subsection (a)(14) is derived from former 15 Pa.C.S. §152(h) (first sentence).

**15 Pa.C.S. §154:** Derived from act of July 12, 1972 (P.L.769, No.182), §6 (former 71 P.S. §803.6).

**15 Pa.C.S. §155:** Subsections (a) and (b) are patterned after act of July 1, 1978 (P.L.700, No.124), §301 (63 P.S. §1401-301). Subsection (c) is patterned after act of July 6, 1989 (P.L.169, No.32), §105 (35 P.S. § 6021-105).

**15 Pa.C.S. §161:** Section renumbered from former §151 to conform to new 15 Pa.C.S. Subch. 1C. Exclusion in subsection (e) of associations that may be domesticated under 15 Pa.C.S. §6161 is new. Requirement in subsection (f) that associations be alien is new.

**15 Pa.C.S. §162:** Section renumbered from former §152 to conform to new 15 Pa.C.S. Subch. 1C. Subsection (b)(1)(ii) and (3)(ii) are new. Conforming changes made to section numbers in cross references in subsections (b)(2) and (f)(2). The first clause of subsection (d)(2) is new. Title of filings changed. Provision in subsection (e) on filing documents by telecopy or other similar means omitted as supplied by 15 Pa.C.S. §135(d). Paragraph (f)(2) is new. Filing fee in subsection (h) deleted as supplied by new 15 Pa.C.S. §153(a)(14).

**15 Pa.C.S. §511:** Subsection (a) is derived from former 15 Pa.C.S. Subch. 5B. Subsection (b) is a reenactment of former 15 Pa.C.S. §511(g), except that business corporations and nonprofit corporations are excluded from the scope of the section. Compare 15 Pa.C.S. §§1711 and 5711.

**15 Pa.C.S. §512:** Subsections (a) and (b) are a reenactment of former 15 Pa.C.S. §511(a), except that business corporations and nonprofit corporations are excluded from the scope of the section. Subsection (c) is patterned after former 15 Pa.C.S. §1732(c). Compare 15 Pa.C.S. §§1712 and 5712.

**15 Pa.C.S. §513:** Substantially a reenactment of former 15 Pa.C.S. §512, except that business corporations and nonprofit corporations are excluded from the scope of the section. Compare 15 Pa.C.S. §§1713 and 5713.

**15 Pa.C.S. §514:** New. Patterned after 15 Pa.C.S. §§1714 and 5714.

**15 Pa.C.S. §515:** Substantially a reenactment of former 15 Pa.C.S. §511(d) (except last two sentences), (e), (f) and (h) except that business corporations and nonprofit corporations are excluded from the scope of the section. Compare 15 Pa.C.S. §§1715 and 5715.

**15 Pa.C.S. §516:** Reenactment of former 15 Pa.C.S. §511(b) and (c) except that business corporations and nonprofit corporations are excluded from the scope of the section. Compare 15 Pa.C.S. §§1716 and 5716.

**15 Pa.C.S. §517:** Derived from last two sentences of former 15 Pa.C.S. §511(d). Business corporations and nonprofit corporations are excluded from the scope of the section and the section is extended to the alternative standard. Compare 15 Pa.C.S. §§1717 and 5717.

**15 Pa.C.S. §518:** Substantially a reenactment of former 15 Pa.C.S. §513, except that business corporations and nonprofit corporations are excluded from the scope of the section.

**15 Pa.C.S. §521:** Section made inapplicable to insurance corporations. See 15 Pa.C.S. §1102, and Division II and section 401(b) of the act of December 19, 1990 (P.L.834, No.198), known as the GAA Amendments Act of 1990. Section also made inapplicable to credit unions. See 17 Pa.C.S. §501(a)(4).

**15 Pa.C.S. §522:** Section made inapplicable to insurance corporations. See 15 Pa.C.S. §1102, and Division II and section 401(b) of the act of December 19, 1990 (P.L.834, No.198), known as the GAA Amendments Act of 1990. Section also made inapplicable to credit unions. See 17 Pa.C.S. §712(a).

**15 Pa.C.S. §523:** Section made inapplicable to insurance corporations. See 15 Pa.C.S. §1102, and Division II and section 401(b) of the act of December 19, 1990 (P.L.834, No.198), known as the GAA Amendments Act of 1990. Section also made inapplicable to credit unions. See 17 Pa.C.S. §715.

**15 Pa.C.S. §1102:** Former subsection (c)(3) deleted, making insurance corporations subject to 15 Pa.C.S. Subpart IIB. See Division II and section 401(b) of the act of December 19, 1990 (P.L.834, No.198), known as the GAA Amendments Act of 1990.

**15 Pa.C.S. §1103:** Definition of "credit union" conformed to 15 Pa.C.S. §7902. Definition of "distribution" clarified with respect to issuance of options, rights or warrants and upstream guarantees. Definition of "entitled to vote" clarified. Citation in definition of "foreign insurance corporation" corrected. Definitions of "insurance corporation" and "qualified foreign business corporation" conformed to 15 Pa.C.S. §1102. Provision on exchange of shares for other securities or obligations in definition of "reclassification" is new. Definitions of "Exchange Act," "Internal Revenue Code of 1986," "Investment Company Act of 1940," "mutual insurance company," "relax" and "Securities Act of 1933" are new.

**15 Pa.C.S. §1104:** Section references conformed to new 15 Pa.C.S. Subch. 1C, and reference to 15 Pa.C.S. §140 added. References to 15 Pa.C.S. §§511-513 omitted.

**15 Pa.C.S. §1106:** Conforming changes made to subsection (b)(3). Subsection (b)(4) is new.

**15 Pa.C.S. §1108:** Section renumbered from former §1107.

**15 Pa.C.S. §1109:** Section renumbered from former §1108.

**15 Pa.C.S. §1110:** Derived from act of March 4, 1971 (P.L.6, No.2), §403(a)(3)(last sentence) (72 P.S. §7403(a)(3)(last sentence)). Compare new 15 Pa.C.S. §5110.

**15 Pa.C.S. §1303:** References added in subsection (b)(1) to filings that have not yet become effective. Reference in subsection (b)(1) to limited partnership filings that block corporate names limited to those filed in the Department of State. Provision in subsection (b)(1)(i)(B) that failure to make a required filing in the Department of State for three years makes name available omitted. Name of document evidencing consent of an association to use of similar name changed to "statement." Subsection (c)(1)(iii) conformed to the inclusion of insurance corporations within the scope of Subpart IIB, and patterned in part after former 15 Pa.C.S. §2121(b). See 15 Pa.C.S. §1102, and Division II and section 401(b) of the act of December 19, 1990 (P.L.834, No.198), known as the GAA Amendments Act of 1990. Subsection (c)(1)(v) is new.

**15 Pa.C.S. §1306:** Subsection (b) is new. Subsection (c) redesignated from last sentence of subsection (a).

**15 Pa.C.S. §1504:** References to a contrary provision of the articles and to subsection (d) and 15 Pa.C.S. §§1713 and 1725 added in subsection (b). Rule of subsection (d) conformed to 15 Pa.C.S. §1914(e).

**15 Pa.C.S. §1505:** Reference to 15 Pa.C.S. §1713 substituted for references to 15 Pa.C.S. §§512 and 1721(e) and 42 Pa.C.S. §8364.

**15 Pa.C.S. §1508:** Former subsection (d) deleted. As to new subsection (d), see 15 Pa.C.S. §1306(a)(8). Subsection (e) is new.

**15 Pa.C.S. §1510:** Subsection (b) and definition of "affiliate" in subsection (c) are new.

**15 Pa.C.S. §1521:** Last sentence of subsection (b)(1)(i) is new. Test for a distribution under subsection (b)(3) limited to 15 Pa.C.S. §1551(b)(2). Requirement that a provision of the articles conferring a specifically enforceable right to a distribution refer to subsection (b)(3) made optional if an express reference to specific enforceability is set forth.

**15 Pa.C.S. §1524:** Reference to use of shares or other securities or obligations of the issuing corporation as consideration for shares added in subsection (a)(1). Exception as to subsection (e) added in subsection (c). Date changed in subsection (e) to conform to general effective date of the General Association Act of 1988.

**15 Pa.C.S. §1525:** Reference in subsection (c) to 15 Pa.C.S. Subch. 17B substituted for reference to 15 Pa.C.S. §1721. Rule of subsection (e) limited to shares sold pursuant to a plan. Required vote in subsection (e) conformed to vote required generally. *Cf.* 15 Pa.C.S. §1757(a).

**15 Pa.C.S. §1528:** Reference to 15 Pa.C.S. §1524(d) added in subsection (d). Subsection (f) amended to require provision creating uncertificated shares to be in the articles rather than the bylaws. But see new 15 Pa.C.S. §1914(c)(2)(iv).

**15 Pa.C.S. §1530:** Subsection (b) is new. Former subsections (b) and (c) relating to preexisting preemptive rights omitted.

**15 Pa.C.S. §1551:** Effect of a provision on par value clarified in subsection (a). Factors that the board may consider when applying the test of subsection (b)(2) clarified in subsection (c). Date of distribution clarified in subsection (d). Subsection (e) conformed to Revised Model Business Corporation Act §6.40(f) (1984). Subsection (g) is new.

**15 Pa.C.S. §1553:** References in subsection (a) to 15 Pa.C.S. §§1712 and 1713 substituted for references to 15 Pa.C.S. §1721(b) and (e). Subsection (e) is new. *Cf.* 15 Pa.C.S. §1306(a)(8).

**15 Pa.C.S. §1554:** Subsection (c) clarified. Subsection (d) is new.

**15 Pa.C.S. §1571:** References to 15 Pa.C.S. §§2705(c) and 7104(b)(3) added in subsection (a) and conforming change made in subsection (e). Rule of subsection (b)(2) limited to situations in which subsection (b)(1) applies to conform to other exceptions to the availability of dissenters rights (e.g. 15 Pa.C.S. §2537). Subsection (b)(2)(iii) is new. Subsection (f) is new. *Cf.* 15 Pa.C.S. §1306(a)(8).

**15 Pa.C.S. §1572:** The last two sentences of the definition of “corporation” are new.

**15 Pa.C.S. §1576:** References to timely action added in subsection (a).

**15 Pa.C.S. §1577:** Subsections (c) and (d) clarified.

**15 Pa.C.S. §1578:** Subsection (b) clarified.

**15 Pa.C.S. §1701:** Subsection (b) is new. Compare 15 Pa.C.S. §1306(a)(8).

**15 Pa.C.S. §1702:** Subsection (a) clarified. Final exception in subsection (b) regarding a required notice that has not been given is new. Subsections (c) and (d) are new.

**15 Pa.C.S. §1703:** First sentence of subsection (b) limited to regular meetings. Second sentence of subsection (b) limited to special meetings.

**15 Pa.C.S. §1704:** Requirement in first sentence of subsection (c) that a notice comply with the express requirements of Subpart IIB is new. The second sentence of subsection (c) is new and is intended to make clear that State law does not duplicate the disclosure requirements of 18 CFR §240.10b-5. Compare *Stroud v. Milliken Enterprises, Inc.*, 552 A.2d 476 (Del. 1989).

**15 Pa.C.S. §1705:** Omission of requirement in subsection (a) that waiver of notice of special meeting of shareholders specify the general nature of the business to be transacted patterned after Delaware General Corporation Law §229.

**15 Pa.C.S. §1708:** Reference to a contrary bylaw is new.

**15 Pa.C.S. §1711:** Reenactment of former 15 Pa.C.S. §1721(j), except that subsections (b)(2) and (c) are new. Compare 15 Pa.C.S. §§511 and 5711.

**15 Pa.C.S. §1712:** Subsections (a) and (b) are substantially a reenactment of former 15 Pa.C.S. §1721(b). Compare 15 Pa.C.S. §§512 and 5712. Subsection (c) is a reenactment of former 15 Pa.C.S. §1732(c). Compare 15 Pa.C.S. §§512(c) and 5712(c).

**15 Pa.C.S. §1713:** Reenactment of former 15 Pa.C.S. §1721(h), except the last sentence of subsection (b) which is new. Compare 15 Pa.C.S. §§513 and 5713.

**15 Pa.C.S. §1714:** Substantially a reenactment of former 15 Pa.C.S. §1721(i) except that the provision is limited to directors generally-competent to act. Compare 15 Pa.C.S. §§514 and 5714.

**15 Pa.C.S. §1715:** Reenactment of former 15 Pa.C.S. §1721(e), (f), (g) and (k). Compare 15 Pa.C.S. §§515 and 5715.



**15 Pa.C.S. §1716:** Reenactment of former 15 Pa.C.S. §1721(c) and (d). Compare 15 Pa.C.S. §§516 and 5716.

**15 Pa.C.S. §1717:** Derived from last two sentences of former 15 Pa.C.S. §1721(e), which are extended to alternative standard. Compare 15 Pa.C.S. §§517 and 5717.

**15 Pa.C.S. §1721:** The last sentence is new. Former subsections (b) through (l) omitted as supplied by 15 Pa.C.S. §§1711-1717.

**15 Pa.C.S. §1722:** Subsection (b) is new.

**15 Pa.C.S. §1723:** Subsection (b) is new.

**15 Pa.C.S. §1724:** Reference in subsection (b) to a contrary provision of the articles is new.

**15 Pa.C.S. §1725:** The last sentence of subsection (a) is derived from act of May 5, 1933 (P.L.364, No.106) §403 (first sentence) (former 15 P.S. §1403 (first sentence)). Reference to type of classified board clarified in subsection (b)(2). Cross reference in subsection (d) to 15 Pa.C.S. §1758(c) is new.

**15 Pa.C.S. §1726:** Subsection (a)(5) is new. Reference in subsection (c) to 15 Pa.C.S. Subch. 17F substituted for reference to 15 Pa.C.S. Subch. 17E. Subsection (e) is new.

**15 Pa.C.S. §1732:** Former subsection (c) omitted as supplied by 15 Pa.C.S. §1712(c). Subsection (c) is new.

**15 Pa.C.S. §1746:** Reference to 15 Pa.C.S. §2538 in subsection (a) substituted for reference to repealed section. The last sentence of subsection (b) is new. Compare 15 Pa.C.S. §1306(a)(8). Former subsection (d) omitted.

**15 Pa.C.S. §1747:** Former subsection (b) omitted.

**15 Pa.C.S. §1755:** Reference to contrary provision of the articles in second sentence of subsection (a) is new. Subsection (d) is new.

**15 Pa.C.S. §1756:** Reference to 15 Pa.C.S. §3134 in subsection (c) is new.

**15 Pa.C.S. §1757:** Provision on class vote in subsection (a) is new.

**15 Pa.C.S. §1758:** Last sentence of subsection (a) amended to provide enabling legislation for restrictions of the type regulated by Rule 19c-4(c) under the Securities Exchange Act of 1934 (17 CFR 240.19c-4(c)). Availability of voting by ballot limited to situations where it is required by vote of the shareholders.

**15 Pa.C.S. §1759:** The second sentence of subsection (b) is patterned in part after Tex. Bus. Corp. Act §2.29. Subsection (e) is new.

**15 Pa.C.S. §1763:** Provisions on record date for determining shareholders entitled to call a special meeting or to propose an amendment of the articles added in subsection (b)(2).

**15 Pa.C.S. §1765:** Subsection (b) is new.

**15 Pa.C.S. §1766:** Provision restricting implementation of subsection (b) to the articles in the case of a registered corporation deleted to conform to amended 15 Pa.C.S. §2524.

**15 Pa.C.S. §1767:** Introductory clause added and reference to 15 Pa.C.S. §1981 corrected in subsection (a). Subsections (b)(2), (d) and (e) are new.

**15 Pa.C.S. §1770:** Omitted.

**15 Pa.C.S. §1791:** Cross reference in subsection (b) changed from 15 Pa.C.S. §4145 to 15 Pa.C.S. §3138.

**15 Pa.C.S. §1792:** Cross reference in subsection (c) changed from 15 Pa.C.S. §4145 to 15 Pa.C.S. §3138.

**15 Pa.C.S. §1793:** Cross reference in subsection (c) changed from 15 Pa.C.S. §4145 to 15 Pa.C.S. §3138.

**15 Pa.C.S. §1901:** Subsection (a)(2) is new.

**15 Pa.C.S. §1903:** Terminology in the section generally conformed to usage of the Bankruptcy Code. The last three sentences of subsection (b) and subsection (c) are derived from act of May 5, 1933 (P.L.364, No.106) §320 (former 15 P.S. §1320).

**15 Pa.C.S. §1905:** References to dissolution of the corporation and approval by the board are new. Reference to consent of shareholders added.

**15 Pa.C.S. §1906:** Reference in subsection (a) to a provision of the articles restricting the use of special treatment is new. References to groups clarified in subsection (a)(1)(i) and (b). Subsection (d)(2) and (3) are new.

**15 Pa.C.S. §1911:** Reference to special treatment added in subsection (a)(4). Subsection (c) is new.

**15 Pa.C.S. §1912:** Cross reference to 15 Pa.C.S. §1106(b)(4) added in subsection (a).

**15 Pa.C.S. §1914:** References to preemptive rights and cumulative voting in subsection (b)(2) are new. Former paragraph (b)(3) omitted. Subsection (c)(2)(iv) is new. Reference in subsection (e) to a provision in a bylaw adopted by the shareholders changed to a provision in the articles.

**15 Pa.C.S. §1921:** The application of subsection (c) to share exchanges, the requirement in subsection (c) that a domestic business corporation be a party or resulting entity and the last two sentences of subsection (c) are new.

**15 Pa.C.S. §1922:** Reference to special treatment in subsection (a)(4) clarified. Reference in subsection (d) to a partnership, business trust or other association that approves a plan is new.

**15 Pa.C.S. §1923:** Restriction in subsection (a) on furnishing a copy of 15 Pa.C.S. Subch. 15D to classes or series entitled to dissent is new.

**15 Pa.C.S. §1924:** Required vote in subsection (a) conformed to 15 Pa.C.S. §1914(a). Applicability of subsection (b)(1)(i) clarified.

**15 Pa.C.S. §1931:** Subsection (b)(2) clarified. Use of special treatment in connection with a division clarified in subsection (b)(4). Subsection (h) is new (compare 15 Pa.C.S. §1952(h)).

**15 Pa.C.S. §1952:** Reference to special treatment in subsection (a)(5) clarified. Application of subsection (h) to proposal of division clarified. Date changed in subsection (h) to conform to general effective date of the General Association Act of 1988.

**15 Pa.C.S. §1954:** Former subparagraph (4)(ii) omitted.

**15 Pa.C.S. §1957:** Subsection (g) is new.

**15 Pa.C.S. §1962:** Reference to special treatment in subsection (a)(3) clarified.

**15 Pa.C.S. §1972:** Section divided into two subsections.

**15 Pa.C.S. §1974:** Required vote in subsection (a) conformed to 15 Pa.C.S. §1914(a).

**15 Pa.C.S. §2101:** Subsection (a)(3) is new. See 15 Pa.C.S. §1102, and Division II and section 401(b) of the act of December 19, 1990 (P.L.834, No.198), known as the GAA Amendments Act of 1990.

**15 Pa.C.S. §2105:** Subsection (c) is new.

**15 Pa.C.S. §2121:** Cross reference in subsection (b) substituted for provision transferred to 15 Pa.C.S. §1303(c)(1)(iii).

**15 Pa.C.S. §2301:** Applicability of subsection (d) conformed to effective date of 15 Pa.C.S. Ch.23.

**15 Pa.C.S. §2304:** Citation for Securities Act of 1933 omitted in subsection (a).

**15 Pa.C.S. §2309:** Name of document filed under subsection (a)(1) changed to "statement."

**15 Pa.C.S. §2334:** Subsection (b)(1)(iii) clarified.

**15 Pa.C.S. §2502:** Last sentence of paragraph (1) and references to management companies are new.

**15 Pa.C.S. §2524:** Subsection (a) clarified. Compare 15 Pa.C.S. §1766(b).

**15 Pa.C.S. §2525:** New.

**15 Pa.C.S. §2538:** Derived from former 15 Pa.C.S. §1770, as added by the act of December 21, 1988 (P.L.1444, No.177).

**15 Pa.C.S. §2541:** Subsection (a)(2) is amended and (a)(3) is new.

**15 Pa.C.S. §2543:** Subsection (b)(2)(iv)-(vi) and (3) are new.

**15 Pa.C.S. §2552:** Definition of "Exchange Act" transferred to 15 Pa.C.S. §1103.

**15 Pa.C.S. §2554:** Paragraph (1) expanded to cover share exchanges and divisions.

**15 Pa.C.S. §2561:** Reference in subsection (b)(2)(iii) to adoption of an articles amendment at any time that the corporation is not a registered corporation described in section 2502(1)(i) is new. Subsections (b)(2)(i)(A)(II), (b)(2)(i)(B), (b)(2)(ii), (b)(5)(xi) and (xii) and (d)(4) are new. Reference in subsection (e) to 15 Pa.C.S. §2565 substituted for reference to 15 Pa.C.S. §2564.

**15 Pa.C.S. §2562:** Reference in paragraph (2) of definition of "disinterested shares" to 15 Pa.C.S. §2565(c) substituted for reference to 15 Pa.C.S. §2564(c). Definition of "Exchange Act" omitted as supplied by 15 Pa.C.S. §1103. Reference in definition of "proxy solicitation" to 15 Pa.C.S. §2563(b)(3) substituted for reference to 15 Pa.C.S. §2562.1(b)(3).

**15 Pa.C.S. §2563:** Section renumbered from former §2562.1. Reference in subsection (a)(1) to 15 Pa.C.S. §2564 substituted for reference to 15 Pa.C.S. §2563. Subsection (b)(4) is new.

**15 Pa.C.S. §2564:** Section renumbered from former §2563.

**15 Pa.C.S. §2565:** Section renumbered from former §2564. Section number cross references conformed to renumbering of Subchapter 25G.

**15 Pa.C.S. §2566:** Section renumbered from former §2565. Reference in subsection (a)(8) to 15 Pa.C.S. §2564 substituted for reference to 15 Pa.C.S. §2563.

**15 Pa.C.S. §2567:** Section renumbered from former §2566. Section number cross references conformed to renumbering of Subchapter 25G.

**15 Pa.C.S. §2568:** Section renumbered from former §2567.

**15 Pa.C.S. §2571:** Reference in subsection (b)(2)(iii) to adoption of an articles amendment at any time that the corporation is not a registered corporation described in section 2502(1)(i) is new. Subsection (b)(2)(i)(A)(II), (b)(2)(i)(B), (b)(2)(ii), (b)(6)(iii) and (8) are new.

**15 Pa.C.S. §2573:** Reference in definition of "proxy solicitation" to 15 Pa.C.S. §2574(b)(3) substituted for reference to 15 Pa.C.S. §2573.1(b)(3).

**15 Pa.C.S. §2574:** Section renumbered from former §2573.1. Subsection (c) is new.

**15 Pa.C.S. §2575:** Section renumbered from former §2574.

**15 Pa.C.S. §2576:** Section renumbered from former §2575.

**15 Pa.C.S. §2581:** Section number cross references in definition of "control-share approval" conformed to renumbering of Subchapter 25G and in 15 Pa.C.S. §2561(b)(2).

**15 Pa.C.S. §2701:** Derived from former 15 Pa.C.S. §2701(a) and (b). Subsection (c) patterned in part after 15 Pa.C.S. §2501(c).

**15 Pa.C.S. §2702:** Derived from former 15 Pa.C.S. §2701(c).

**15 Pa.C.S. §2703:** New.

**15 Pa.C.S. §2704:** Derived from former 15 Pa.C.S. §§2702, 2703(a) and 2704.

**15 Pa.C.S. §2705:** Derived from former 15 Pa.C.S. §2703(b).

**15 Pa.C.S. §2711:** Subsection (a) is substantially a reenactment of former 15 Pa.C.S. §2721. Subsection (b) is new.

**15 Pa.C.S. §2712:** Reenactment of former 15 Pa.C.S. §2722.

**15 Pa.C.S. §2721:** Derived from former 15 Pa.C.S. §2711. *Cf.* 15 Pa.C.S. §2701(c).

**15 Pa.C.S. §2722:** Substantially a reenactment of former 15 Pa.C.S. §2712.

**15 Pa.C.S. §2923:** Reference to beneficial ownership added in subsection (a). Former subsection (b) omitted.

**15 Pa.C.S. §3101:** Patterned after 15 Pa.C.S. §2901.

**15 Pa.C.S. §3102:** Derived from 15 Pa.C.S. §1103 ("insurance corporation").

**15 Pa.C.S. §3121:** Derived from act of May 17, 1921 (P.L.682, No.284), §303 (former 40 P.S. §423).

**15 Pa.C.S. §3122:** Compare act of May 17, 1921 (P.L.682, No.284), §421 (former 40 P.S. §591).

**15 Pa.C.S. §3131:** Derived from act of May 17, 1921 (P.L.682, No.284), §308 (former 40 P.S. §429). Subsection (b) also derived from act of May 17, 1921 (P.L.682, No.284), §208 (former 40 P.S. §388).

**15 Pa.C.S. §3132:** Derived from act of May 17, 1921 (P.L.682, No.284), §314 (former 40 P.S. §437).

**15 Pa.C.S. §3133:** Derived from act of May 17, 1921 (P.L.682, No.284), §§304 and 322(b) (former 40 P.S. §§424 and 445(b)).

**15 Pa.C.S. §3134:** Derived from act of May 17, 1921 (P.L.682, No.284), §303 (former 40 P.S. §423).

**15 Pa.C.S. §3135:** Patterned after act of May 5, 1933 (P.L.364, No.106), §504A (former 15 P.S. §1504(A)). Derived from act of March 5, 1903 (P.L.14, No.17) (15 P.S. §429). See also act of March 28, 1820 (P.L.169, No.113), §1.

**15 Pa.C.S. §3136:** Derived from act of May 17, 1921 (P.L.682, No.284), §303 (former 40 P.S. §423).

**15 Pa.C.S. §3137:** New.

**15 Pa.C.S. §3138:** New.

**15 Pa.C.S. §4101:** Reference to insurance corporations deleted from subsection (a). Applicability of subsection (b)(1) clarified. Former subsection (c) omitted. See 15 Pa.C.S. §1102, and Division II and section 401(b) of the act of December 19, 1990 (P.L.834, No.198), known as the GAA Amendments Act of 1990.

**15 Pa.C.S. §4121:** Subsection (c) is new. See 15 Pa.C.S. §1102, and Division II and section 401(b) of the act of December 19, 1990 (P.L.834, No.198), known as the GAA Amendments Act of 1990.

**15 Pa.C.S. §4123:** Reference to 15 Pa.C.S. §1306(c)(1)(iii) in subsection (a) deleted. The requirement in subsection (b)(1)(i) that a name be otherwise available and subsection (b)(2) are new.

**15 Pa.C.S. §4125:** Requirement that Department of State issue a certificate of authority to do business deleted.

**15 Pa.C.S. §4126:** Requirement that Department of State issue an amended certificate of authority to do business deleted.

**15 Pa.C.S. §4128:** Subsection (c) is new. See 15 Pa.C.S. §1102, and Division II and section 401(b) of the act of December 19, 1990 (P.L.834, No.198), known as the GAA Amendments Act of 1990.

**15 Pa.C.S. §4129:** Requirement in subsection (a)(5) that application for termination of authority state that official publication of notice has been effected is new.

**15 Pa.C.S. §4142:** Subsection (c) is new.

**15 Pa.C.S. §4146:** Applicability of 15 Pa.C.S. §1782 limited to actions or proceedings brought in the courts of this Commonwealth.

**15 Pa.C.S. §4161:** Renunciation of original charter made optional in subsection (b)(6).

**15 Pa.C.S. §5102:** Subsection (b) patterned after 15 Pa.C.S. §1102(b). Subsection (c) is intended as a restatement of existing law.

**15 Pa.C.S. §5103:** The following definitions are new: "act," "corporation for profit," "corporation not-for-profit," "court," "department," "domestic corporation for profit," "domestic corporation not-for-profit," "foreign corporation for profit," "foreign corporation not-for-profit," "foreign nonprofit corporation," "fraternal benefit society" and "relax." Definition of "articles" patterned after 15 Pa.C.S. §1103.

**15 Pa.C.S. §5104:** Section references conformed to new 15 Pa.C.S. Subch. 1C. References to former 15 Pa.C.S. §§511-513 omitted. References to §§140 and 2552 added.

**15 Pa.C.S. §5110:** Derived from act of November 15, 1972 (P.L.1063, No.271), §8 (15 Pa.C.S.A. §101 note).

**15 Pa.C.S. §5301:** Reference to a purpose of fraternal benefit omitted in subsection (a). Subsection (b) is new.

**15 Pa.C.S. §5303:** Patterned after 15 Pa.C.S. §1303.

**15 Pa.C.S. §5305:** Patterned after 15 Pa.C.S. §1305.

**15 Pa.C.S. §5306:** Patterned after 15 Pa.C.S. §1306, except that articles are not permitted to relax or be inconsistent with the statute.

**15 Pa.C.S. §5311:** Patterned after 15 Pa.C.S. §1311.

**15 Pa.C.S. §5341:** Patterned after 15 Pa.C.S. §1341.

**15 Pa.C.S. §5502:** Patterned after 15 Pa.C.S. §1502.

**15 Pa.C.S. §5504:** Patterned after 15 Pa.C.S. §1504.

**15 Pa.C.S. §5505:** Patterned after 15 Pa.C.S. §1505.

**15 Pa.C.S. §5507:** Patterned after 15 Pa.C.S. §1507.

**15 Pa.C.S. §5701:** Cross reference to 15 Pa.C.S. §5707(a) is new.

**15 Pa.C.S. §5702:** Subsections (a), (b) and (c) are patterned after 15 Pa.C.S. §1702. Subsections (d), (e) and (f) are derived from former 15 Pa.C.S. §5702.1.

**15 Pa.C.S. §5703:** Patterned after 15 Pa.C.S. §1703.

**15 Pa.C.S. §5704:** Patterned after 15 Pa.C.S. §1704.

**15 Pa.C.S. §5705:** Patterned after 15 Pa.C.S. §1705.

**15 Pa.C.S. §5706:** Patterned after 15 Pa.C.S. §1706.

**15 Pa.C.S. §5707:** Patterned after 15 Pa.C.S. §1707.

**15 Pa.C.S. §5708:** Patterned after 15 Pa.C.S. §1708.

**15 Pa.C.S. §5711:** Reenactment of former 15 Pa.C.S. §511(g), limited to nonprofit corporations. Compare new 15 Pa.C.S. §§511 and 1711.

**15 Pa.C.S. §5712:** Subsections (a) and (b) are a reenactment of former 15 Pa.C.S. §511(a), limited to nonprofit corporations. Compare new 15 Pa.C.S. §§512 and 1712. Subsection (c) is patterned after former 15 Pa.C.S. §1732(c). Compare new 15 Pa.C.S. §1712(c).

**15 Pa.C.S. §5713:** Reenactment of former 15 Pa.C.S. §512, limited to nonprofit corporations. Compare new 15 Pa.C.S. §§513 and 1713.

**15 Pa.C.S. §5714:** Patterned after former 15 Pa.C.S. §1721(i) and limited to directors generally competent to act. Compare new 15 Pa.C.S. §§514 and 1714.

**15 Pa.C.S. §5715:** Substantially a reenactment of former 15 Pa.C.S. §511(d) (except last two sentences), (e), (f) and (h), limited to nonprofit corporations. Compare new 15 Pa.C.S. §§515 and 1715.

**15 Pa.C.S. §5716:** Reenactment of former 15 Pa.C.S. §511(b) and (c), limited to nonprofit corporations. Compare new 15 Pa.C.S. §§516 and 1716.

**15 Pa.C.S. §5717:** Derived from last two sentences of former 15 Pa.C.S. §511(d), limited to nonprofit corporations and extended to alternative standard. Compare new 15 Pa.C.S. §§517 and 1717.

**15 Pa. C.S. §5721:** Patterned after 15 Pa.C.S. §1721.

**15 Pa. C.S. §5732:** Patterned after 15 Pa.C.S. §1732.

**15 Pa. C.S. §5734:** Scope of section expanded to cover members of an other body individually and to incorporate law applicable to directors generally.

**15 Pa. C.S. §5741:** Patterned after 15 Pa.C.S. §1741.

**15 Pa. C.S. §5742:** Patterned after 15 Pa.C.S. §1742.

**15 Pa. C.S. §5743:** Patterned after 15 Pa.C.S. §1743.

**15 Pa. C.S. §5744:** Patterned after 15 Pa.C.S. §1744.

**15 Pa. C.S. §5745:** Patterned after 15 Pa.C.S. §1745.

**15 Pa. C.S. §5746:** Patterned after 15 Pa.C.S. §1746.

**15 Pa. C.S. §5747:** Patterned after 15 Pa.C.S. §1747.

**15 Pa. C.S. §5748:** Patterned after 15 Pa.C.S. §1748.

**15 Pa. C.S. §5749:** Patterned after 15 Pa.C.S. §1749.

**15 Pa. C.S. §5750:** Patterned after 15 Pa.C.S. §1750.

**15 Pa. C.S. §5758:** The first sentence of subsection (b) is new and is intended to overrule *Sparkes v. Wright*, 547 A.2d 415 (Pa. Super. 1988). The amendments to subsection (b) are made retroactive to February 13, 1972, by section 404(b)(3) of the act of December 19, 1990 (P.L.834, No.198), known as the GAA Amendments Act of 1990, without affecting any judgments that become final prior to the enactment of that act. The last sentence of subsection (b) is new.

**15 Pa. C.S. §5901:** Patterned after 15 Pa.C.S. §1901.

**15 Pa. C.S. §5902:** Patterned after 15 Pa.C.S. §1902.

**15 Pa. C.S. §5903:** Patterned after 15 Pa.C.S. §1903.

**15 Pa. C.S. §5905:** Patterned after 15 Pa.C.S. §1905.

**15 Pa. C.S. §5915:** Patterned after 15 Pa.C.S. §1915.

**15 Pa. C.S. §5916:** Patterned after 15 Pa.C.S. §1916.

**15 Pa. C.S. §5926:** Patterned after 15 Pa.C.S. §1926.

**15 Pa. C.S. §5954:** Patterned after 15 Pa.C.S. §1954.

**15 Pa. C.S. §5963:** Patterned after 15 Pa.C.S. §1963.

**15 Pa. C.S. §5971:** Patterned after 15 Pa.C.S. §1971.

**15 Pa. C.S. §5972:** Patterned after 15 Pa.C.S. §1972.

**15 Pa. C.S. §5973:** Patterned after 15 Pa.C.S. §1973.

**15 Pa. C.S. §5974:** Patterned after 15 Pa.C.S. §1974.

**15 Pa. C.S. §5974.1:** Omitted.

**15 Pa. C.S. §5974.2:** Omitted.

**15 Pa. C.S. §5975:** Patterned after 15 Pa.C.S. §1975.

**15 Pa. C.S. §5976:** Patterned after 15 Pa.C.S. §1976.

**15 Pa. C.S. §5977:** Patterned after 15 Pa.C.S. §1977.

**15 Pa. C.S. §5978:** Patterned after 15 Pa.C.S. §1978.

**15 Pa. C.S. §5979:** Patterned after 15 Pa.C.S. §1979.

**15 Pa. C.S. §5989:** Patterned after 15 Pa.C.S. §1989.

**15 Pa. C.S. §5991:** Patterned after 15 Pa.C.S. §1991.

**15 Pa. C.S. §5992:** Patterned after 15 Pa.C.S. §1992.

**15 Pa. C.S. §5993:** Patterned after 15 Pa.C.S. §1993.

**15 Pa.C.S. §5994:** Patterned after 15 Pa.C.S. §1994.

**15 Pa.C.S. §5995:** Patterned after 15 Pa.C.S. §1995.

**15 Pa.C.S. §5996:** Patterned after 15 Pa.C.S. §1996.

**15 Pa.C.S. §5997:** Patterned after 15 Pa.C.S. §1997.

**15 Pa.C.S. §5998:** Patterned after 15 Pa.C.S. §1998.

**15 Pa.C.S. §6101:** Patterned after 15 Pa.C.S. §4101. Subsection (c) is intended as a continuation of existing law.

**15 Pa.C.S. §6121:** Patterned after 15 Pa.C.S. §4121.

**15 Pa.C.S. §6122:** Patterned after 15 Pa.C.S. §4122.

**15 Pa.C.S. §6123:** Patterned after 15 Pa.C.S. §4123.

**15 Pa.C.S. §6124:** Patterned after 15 Pa.C.S. §4124.

**15 Pa.C.S. §6125:** Patterned after 15 Pa.C.S. §4125.

**15 Pa.C.S. §6126:** Patterned after 15 Pa.C.S. §4126.

**15 Pa.C.S. §6127:** Patterned after 15 Pa.C.S. §4127.

**15 Pa.C.S. §6128:** Patterned after 15 Pa.C.S. §4128.

**15 Pa.C.S. §6129:** Patterned after 15 Pa.C.S. §4129.

**15 Pa.C.S. §6130:** Patterned after 15 Pa.C.S. §4130.

**15 Pa.C.S. §6131:** Patterned after 15 Pa.C.S. §4131.

**15 Pa.C.S. §6144:** Patterned after 15 Pa.C.S. §4144.

**15 Pa.C.S. §6145:** Reference in subsection (c)(11) to 15 Pa.C.S. Subch. 57G substituted for reference to 15 Pa.C.S. Subch. 57F.

**15 Pa.C.S. §6161:** Patterned after 15 Pa.C.S. §4161.

**15 Pa.C.S. §6162:** Patterned after 15 Pa.C.S. §4162.

**15 Pa.C.S. §7102:** Subsections (b)(2)(ii) and (d) are new. The reference to Title 17 in subsection (c) is new.

**15 Pa.C.S. §7103:** Subsection (b) conformed to new 15 Pa.C.S. §7307.

**15 Pa.C.S. §7104:** New.

**15 Pa.C.S. §7105:** New.

**15 Pa.C.S. §7106:** New.

**15 Pa.C.S. §7107:** New.

**15 Pa.C.S. §7301:** Subsection (a) is derived from act of June 21, 1937 (P.L.1969, No.389), §1 (15 P.S. §12401). Subsection (b) is derived from the act of July 30, 1975 (P.L.113, No.57), (15 P.S. §3277).

**15 Pa.C.S. §7302:** Subsection (a) is new. Subsection (b) is derived from act of June 21, 1937 (P.L.1969, No.389), §38 (15 P.S. §12438). The provisions of 15 Pa.C.S. Subpart II C that supplement Chapter 73 are indicated in these source notes.

**15 Pa.C.S. §7303:** Derived from act of June 21, 1937 (P.L.1969, No.389), §2 (15 P.S. §12402). The balance of the definition of "person" appears in 1 Pa.C.S. §1991.

**15 Pa.C.S. §7304:** Derived from act of June 21, 1937 (P.L.1969, No.389), §5 (15 P.S. §12405).

**15 Pa.C.S. §7305:** Reenactment of act of June 21, 1937 (P.L.1969, No.389), §3 (15 P.S. §12403).

**15 Pa.C.S. §7306:** Derived from act of June 21, 1937 (P.L.1969, No.389), §6(a) (15 P.S. §12406(a)).



**15 Pa.C.S. §7307:** Substantially a reenactment of act of June 21, 1937 (P.L.1969, No.389), §7 (15 P.S. §12407).

**15 Pa.C.S. §7308:** Derived from act of June 21, 1937 (P.L.1969, No.389), §36 (15 P.S. §12436). No corresponding provision is considered necessary for new Title 15 in general because of the applicability of 1 Pa.C.S. §1928. This section is not intended to imply that any other section of new Title 15 is not to be construed liberally.

**15 Pa.C.S. §7321:** Derived from act of June 21, 1937 (P.L.1969, No.389), §§4 and 6(b) (15 P.S. §§12404 and 12406(b)). The requirement of prior law for approval of the members after 60 days' notice for the authorization of debt is eliminated in view of the repeal in 1956 of former section 7 of Article 16 of the Constitution of 1874. Balance of former section 4 supplied by 15 Pa.C.S. §5502.

**15 Pa.C.S. §7322:** Reenactment of act of June 21, 1937 (P.L.1969, No.389), §11 (15 P.S. §12411).

**15 Pa.C.S. §7323:** Substantially a reenactment of act of June 21, 1937 (P.L.1969, No.389), §12 (15 P.S. §12412).

**15 Pa.C.S. §7324:** Reenactment of act of June 21, 1937 (P.L.1969, No.389), §13 (15 P.S. §12413).

**15 Pa.C.S. §7325:** Derived from act of June 21, 1937 (P.L.1969, No.389), §§14 and 15 (15 P.S. §§12414 and 12415). Balance of sections supplied by 15 Pa.C.S. §§5704 and 5755.

**15 Pa.C.S. §7326:** Reenactment of act of June 21, 1937 (P.L.1969, No.389), §16 (15 P.S. §12416).

**15 Pa.C.S. §7327:** Reenactment of act of June 21, 1937 (P.L.1969, No.389), §17 (15 P.S. §12417).

**15 Pa.C.S. §7328:** Derived from act of June 21, 1937 (P.L.1969, No.389), §18 (15 P.S. §12418). Reference to the bylaws is added.

**15 Pa.C.S. §7329:** Derived from act of June 21, 1937 (P.L.1969, No.389), §§19, 20 and 21 (15 P.S. §§12419, 12420 and 12421). Balance of sections supplied by 15 Pa.C.S. §§5721, 5722, 5724, 5725(a) and 5730.

**15 Pa.C.S. §7330:** Reenactment of act of June 1, 1937 (P.L.1969, No.389), §26 (15 P.S. §12426).

**15 Pa.C.S. §7331:** Derived from act of June 21, 1937 (P.L.1969, No.389), §§28 and 29.1 (15 P.S. §§12428 and 12429a). Balance of sections supplied by 15 Pa.C.S. Subchs. 59C and 59D.

**15 Pa.C.S. §7332:** Derived from act of June 21, 1937 (P.L.1969, No.389), §29 (15 P.S. §12429). Balance of section supplied by 15 Pa.C.S. Ch. 59F.

**15 Pa.C.S. §7333:** Substantially a reenactment of act of June 21, 1937 (P.L.1969, No.389), §31 (15 P.S. §12431).

**15 Pa.C.S. §7334:** Derived from act of June 21, 1937 (P.L.1969, No.389), §32 (15 P.S. §12432).

**15 Pa.C.S. §7335:** Derived from act of June 21, 1937 (P.L.1969, No.389), §33 (15 P.S. §12433). The reference to the act of December 5, 1972 (P.L.1280, No.284) (70 P.S. §1-101 et seq.) is added.

**15 Pa.C.S. §7351:** Derived from act of July 30, 1975 (P.L.113, No.57), §§1.1 and 9 (15 P.S. §§3277.1 and 3285).

**15 Pa.C.S. §7352:** Derived from act of July 30, 1975 (P.L.113, No.57), §2 (15 P.S. §3278). The definition of "association or cooperative corporation" is supplied by 15 Pa.C.S. §7302.

**15 Pa.C.S. §7353:** Reenactment of act of July 30, 1975 (P.L.113, No.57), §3 (15 P.S. §3279).

**15 Pa.C.S. §7354:** Substantially a reenactment of act of July 30, 1975 (P.L.113, No.57), §4 (15 P.S. §3280).

**15 Pa.C.S. §7355:** Substantially a reenactment of act of July 30, 1975 (P.L.113, No.57), §5 (15 P.S. §3281).

**15 Pa.C.S. §7356:** Reenactment of act of July 30, 1975 (P.L.113, No.57), §6 (15 P.S. §3282).

**15 Pa.C.S. §7357:** Reenactment of act of July 30, 1975 (P.L.113, No.57), §7 (15 P.S. §3283).

**15 Pa.C.S. §7358:** Substantially a reenactment of act of July 30, 1975 (P.L.113, No.57), §8 (15 P.S. §3284).

**15 Pa.C.S. §7359:** Substantially a reenactment of act of July 30, 1975 (P.L.113, No.57), §10 (15 P.S. §3286).

**15 Pa.C.S. §7501:** Derived from act of June 12, 1968 (P.L.173, No.94), §1 (15 P.S. §12101).

**15 Pa.C.S. §7502:** Derived from act of June 12, 1968 (P.L.173, No.94), §§4, 5 and 33 (15 P.S. §§12104, 12105 and 12133).

**15 Pa.C.S. §7503:** Derived from act of June 12, 1968 (P.L.173, No.94), §4 (15 P.S. §12104). The definition of "person" appears in 1 Pa.C.S. §1991. The definitions of "delegate" and "department" are added.

**15 Pa.C.S. §7504:** Derived from act of June 12, 1968 (P.L.173, No.94), §§2 and 3 (15 P.S. §§12102 and 12103). The last clause of the first sentence of subsection (a) is not intended to imply that any other section of new Title 15 is not to be construed liberally. No provision for liberal construction is considered necessary for Title 15 in general because of the applicability of 1 Pa.C.S. §1928.

**15 Pa.C.S. §7505:** Derived from act of June 12, 1968 (P.L.173, No.94), §8 (15 P.S. §12108). Requirement of prior law for Pennsylvania citizenship changed to the requirement set forth in the text.

**15 Pa.C.S. §7506:** Substantially a reenactment of act of June 12, 1968 (P.L.173, No.94), §9 (15 P.S. §12109).

**15 Pa.C.S. §7507:** Derived from act of June 12, 1968 (P.L.173, No.94), §10 (15 P.S. §12110). Balance of section supplied by the provisions of Part II of Title 15 made applicable by this section. See 15 Pa.C.S. §§1306 and 5306.

**15 Pa.C.S. §7521:** Derived from act of June 12, 1968 (P.L.173, No.94), §12 (15 P.S. §12112). See 15 Pa.C.S. §§1502 and 5502.

**15 Pa.C.S. §7522:** Derived from act of June 12, 1968 (P.L.173, No.94), §12.2(a) (last sentence) (15 P.S. §12112.2(a) (last sentence)). Balance of section supplied by 15 Pa.C.S. §§1508 and 5508.

**15 Pa.C.S. §7523:** Substantially a reenactment of act of June 12, 1968 (P.L.173, No.94), §13 (15 P.S. §12113).

**15 Pa.C.S. §7524:** Derived from act of June 12, 1968 (P.L.173, No.94), §14 (15 P.S. §12114). The first clause of subsection (f) is patterned in general after Ohio Rev. Code Ann. §1729.10(F) (Page Supp. 1981). Although payment of a dividend in excess of 8% will not be a violation of this section, payment of such a dividend by a corporation not organized on the one member/one vote principle may fail to qualify for the antitrust exemptions contained in the Capper-Volstead Act, 7 U.S.C. §291. Provisions on the form of membership and share certificates are supplied by 15 Pa.C.S. §§1528 and 5753. Provision on preemptive rights is supplied by 15 Pa.C.S. §1530.

**15 Pa.C.S. §7525:** Substantially a reenactment of act of June 12, 1968 (P.L.173, No.94), §15 (15 P.S. §12115). Reference to the board of directors in subsection (a) is omitted as supplied by 15 Pa.C.S. §1502(c).

**15 Pa.C.S. §7526:** Substantially a reenactment of act of June 12, 1968 (P.L.173, No.94), §16 (15 P.S. §12116).

**15 Pa.C.S. §7527:** Derived from act of June 12, 1968 (P.L.173, No.94), §18 (15 P.S. §12118). Provisions on proxy voting are supplied by 15 Pa.C.S. §§1759 and 5759.

**15 Pa.C.S. §7528:** Derived from act of June 12, 1968 (P.L.173, No.94), §19 (15 P.S. §12119). Provisions on organizational meeting of incorporators and notice of meetings of members or delegates are supplied, respectively, by 15 Pa.C.S. §§1320 and 5320 and 15 Pa.C.S. §§1704 and 5704.

**15 Pa.C.S. §7529:** Derived from act of June 12, 1968 (P.L.173, No.94), §§20 and 29 (15 P.S. §§12120 and 12129). See 15 Pa.C.S. Chs. 19 and 59.

**15 Pa.C.S. §7530:** Substantially a reenactment of act of June 12, 1968 (P.L.173, No.94), §21 (15 P.S. §12121). See 15 Pa.C.S. §1504 and 5504.

**15 Pa.C.S. §7531:** Derived from act of June 12, 1968 (P.L.173, No.94), §§22(a), (c), (d) and 27(d) (15 P.S. §§12122(a), (c), (d) and 12127(d)). Provisions of former subsection 22(b) are supplied by 15 Pa.C.S. §§1703, 1724, 1725, 1727, 5703, 5724, 5725 and 5727. Compare 15 Pa.C.S. §5754.

**15 Pa.C.S. §7532:** Reenactment of act of June 12, 1968 (P.L.173, No.94), §24(a) (15 P.S. §12124(a)). Provision for the removal of officers is supplied by 15 Pa.C.S. §§1733 and 5733.

**15 Pa.C.S. §7533:** Reenactment of act of June 12, 1968 (P.L.173, No.94), §23 (15 P.S. §12123).

**15 Pa.C.S. §7534:** Substantially a reenactment of act of June 12, 1968 (P.L.173, No.94), §25 (15 P.S. §12125).

**15 Pa.C.S. §7535:** Substantially a reenactment of act of June 12, 1968 (P.L.173, No.94), §§17 and 26 (15 P.S. §§12117 and 12126). See 15 Pa.C.S. §§1526 and 5553. Reference in subsection (a) to "money or other property delivered by the member to the association" is intended to include patronage, capital retains, reserves, surplus to capital and all other proceeds attributable thereto.

**15 Pa.C.S. §7536:** Derived from act of June 12, 1968 (P.L.173, No.94), §27(a), (b), (c) and (e) (15 P.S. §12127(a), (b), (c) and (e)).

**15 Pa.C.S. §7537:** Substantially a reenactment of act of June 12, 1968 (P.L.173, No.94), §28 (15 P.S. §12128), except that the last sentence is omitted as obsolete.

**15 Pa.C.S. §7538:** Substantially a reenactment of act of June 12, 1968 (P.L.173, No.94), §30 (15 P.S. §12130).

**15 Pa.C.S. §7701:** New.

**15 Pa.C.S. §7702:** Section renumbered from former 15 Pa.C.S. §7701.

**15 Pa.C.S. §7703:** Section renumbered from former 15 Pa.C.S. §7702.

**15 Pa.C.S. §7704:** Section renumbered from former 15 Pa.C.S. §7703. Provisions on approval of articles deleted in subsections (b) and (c). Subsection (d) is derived from former 15 Pa.C.S. §7704.

**15 Pa.C.S. §7720:** References to recording and approval of amendments deleted in subsection (b). Reference to 15 Pa.C.S. §134 in subsection (b) is new.

**15 Pa.C.S. §7721:** Reference to chapter in subsection (b)(3) is new.

**15 Pa.C.S. §7726:** Reference in subsection (a) to effective date of Chapter 77 omitted.

**15 Pa.C.S. §8102:** Reference to credit union in subsection (b)(2) is new.

**15 Pa.C.S. §8103:** Derived from former 15 Pa.C.S. §8571.

**15 Pa.C.S. §8503:** Reference to merger, consolidation or other transaction in paragraph (2) of the definition of "court" is new. Paragraph (3) of the definition of "partnership agreement" is new.

**15 Pa.C.S. §8511:** Subsections (a)(4) and (d), and the reference to 15 Pa.C.S. §140 in subsection (c), are new.

**15 Pa.C.S. §8512:** Former subsection (b)(4) deleted. Subsection (f) is new.

**15 Pa.C.S. §8516:** Subsection (a) is clarified. Subsection (b) is new.

**15 Pa.C.S. §8545:** References in subsection (c) to business trusts clarified. The last sentence of subsection (c) is new.

**15 Pa.C.S. §8558:** Period of limitations in subsection (b) reduced from four years. *Cf.* 15 Pa.C.S. §1553(d).

**15 Pa.C.S. §8562:** Subsection (b) amended to require authorization of certificated partnership interests to be in certificate of limited partnership. See section 404(b)(3) of the act of December 19, 1990 (P.L.834, No.198), known as the GAA Amendments Act of 1990. Cross reference in subsection (b) to 13 Pa.C.S. §8102 is new.

**15 Pa.C.S. §8571:** Former subsection (c) (and cross reference thereto in subsection (a)) omitted as supplied by new 15 Pa.C.S. §8103. Cross reference to 15 Pa.C.S. §8103 added.

**15 Pa.C.S. §8575:** Period of limitations in subsection (a)(2) reduced from four years. Compare 15 Pa.C.S. §1979(a)(2).

**15 Pa.C.S. §8701:** Limited partners removed from scope of subsection (a)(3).

**15 Pa.C.S. §9102:** Typographical correction.

**15 Pa.C.S. §9501:** Subsection (a)(2) is new and is intended as a clarification of existing law.

**15 Pa.C.S. §9502:** Paragraph (4) is new.

**15 Pa.C.S. §9503:** Provisions on filing of instrument in subsection (a) are new. A conforming amendment is made to subsection (c). Permissible period of duration in subsection (d) extended to in perpetuity and the Rule

Against Perpetuities made inapplicable. *See Howe v. Morse*, 174 Mass 491 at 503-4, 55 N.E. 213 at 214 (1899).

**15 Pa.C.S. §9505:** The section is clarified.

**15 Pa.C.S. §9506:** Ability to limit liabilities of a trust to specified assets of the trust clarified in subsection (a). Cross references in subsection (b) substituted for prior reference to 15 Pa.C.S. Subch.5B and the scope of the subsection is extended to officers, employees and agents.

**15 Pa.C.S. §9507:** New. Last clause patterned after 15 Pa.C.S. §4142(a).

**Section 201:** New.

**Section 202:** Subsection (a) patterned after N.J.S.A. 17:18-8. Subsection (b) is patterned in part after N.J.S.A. 17B:18-43(b), except for requirement of prior approval by the Insurance Department. Subsection (c) is derived from act of May 17, 1921 (P.L.682, No.284) §§405.2(b) and 603 (40 P.S. §§505.2(b) and 723).

**Section 203:** Derived from act of May 17, 1921 (P.L.682, No.284) §§211 (last clause) and 754(2) (40 P.S. §§401 (last clause) and 910-54(2)).

**Section 204:** Subsection (a) derived from act of May 17, 1921 (P.L.682, No.284) §§322 and 325 (40 P.S. §§445 and 448). Subsection (b) is new. Subsection (c) is substantially a reenactment of act of May 17, 1921 (P.L.682, No.284) §327 (40 P.S. §450).

**Section 205:** Subsection (a) is a generalization of act of May 17, 1921 (P.L.682, No.284) §§331, 333, 337.5(c), 338, 751 and 752 (40 P.S. §§454, 456, 459.5(c), 460, 910-51 and 910-52) except that in the case of voluntary dissolution review by the Insurance Department is substituted for review by the Attorney General. Subsection (b) derived from act of May 17, 1921 (P.L.682, No.284) §§331, 333, 337.5(c), 751 and 752 (40 P.S. §§454, 456, 459.5(c), 910-51 and 910-52). Subsection (c) derived from act of May 17, 1921 (P.L.682, No.284) §§751 and 752 (40 P.S. §§910-51 and 910-52). Subsection (d) derived from act of May 17, 1921 (P.L.682, No.284), §337 (40 P.S. §459a). Subsection (e) is derived from act of May 17, 1921 (P.L.682, No.284), §332 (last sentence) (40 P.S. §455 (last sentence)). Subsection (f) derived from act of May 17, 1921 (P.L.682, No.284), §338 (sixth sentence) (40 P.S. §460 (sixth sentence)). Section 337.6 of the act of May 17, 1921 (P.L.682, No.284) (40 P.S. §459.6) has not been repealed and will continue to apply independently of the provisions of section 205.

**Section 206:** Derived from act of May 17, 1921 (P.L.682, No.284), §325 (40 P.S. §448).

**Section 207:** Patterned after 40 Pa.C.S. §6102(c)-(f).

**Section 208:** New. Intended to preserve the regulatory status of entities such as limited life insurance companies and mutual fire insurance companies incorporated under special acts.

**Section 301:** New. The intention of this provision is to incorporate by reference, and thereby to rely temporarily on, all aspects of New York law relating to the transfer of uncertificated shares with respect to the transfer of uncertificated shares of Pennsylvania domestic corporations pending the enactment in Pennsylvania of revised Uniform Commercial Code Article 8.

**Section 302:** The source notes for new Title 17 are as follows:

**17 Pa.C.S. §101:** Derived from act of September 20, 1961 (P.L.1548, No.658), §1 (15 P.S. §12301).

**17 Pa.C.S. §102:** Derived from act of September 20, 1961 (P.L.1548, No.658), §2 (15 P.S. §12302).

**17 Pa.C.S. §103:** Derived from act of September 20, 1961 (P.L.1548, No.658), §§2 and 30 (15 P.S. §§12302 and 12330).

**17 Pa.C.S. §104:** Substantially a reenactment of the act of September 20, 1961 (P.L.1548, No.658), §30 (15 P.S. §12330), except first sentence of subsection (c) which is new.

**17 Pa.C.S. §301:** Substantially a reenactment of first and last paragraphs of act of September 20, 1961 (P.L.1548, No.658), §2 (15 P.S. §12302).

**17 Pa.C.S. §302:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §3A (15 P.S. §12303A).

**17 Pa.C.S. §303:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §3B (15 P.S. §12303B), except that the requirement of an acknowledgment of the articles of incorporation is deleted.

**17 Pa.C.S. §304:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §3C, D and E (15 P.S. §12303C, D and E), except that the requirement that the Department of State issue a certificate of incorporation is deleted and the filing of the articles by the department constitutes conclusive evidence of the fact of incorporation.

**17 Pa.C.S. §305:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §11 (15 P.S. §12311), except that subsection (d) has been clarified.

**17 Pa.C.S. §501:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §5A, B and B.1 (15 P.S. §12305A, B and B.1), except subsection (a)(4) which is derived from 15 Pa.C.S. §521 and subsection (b)(7)(vi)-(xi) and subsection (b)(16) and (17) which are new.

**17 Pa.C.S. §502:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §5C and D (15 P.S. §12305C and D).

**17 Pa.C.S. §503:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §7 (15 P.S. §12307).

**17 Pa.C.S. §504:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §8 (15 P.S. §12308).

**17 Pa.C.S. §505:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §15 (15 P.S. §12315). Obsolete matter deleted.

**17 Pa.C.S. §506:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §16 (15 P.S. §12316).

**17 Pa.C.S. §507:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §17 (15 P.S. §12317).

**17 Pa.C.S. §508:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §17D, E and F. Subsections (b) through (e) are new.

**17 Pa.C.S. §509:** Subsection (a) is a reenactment of act of September 20, 1961 (P.L.1548, No.658), §18 (15 P.S. §12318).

**17 Pa.C.S. §510:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §19 (15 P.S. §12319), except that the last two sentences of §19C have been omitted.

**17 Pa.C.S. §511:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §20 (15 P.S. §12320).

**17 Pa.C.S. §512:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §21 (15 P.S. §12321).

**17 Pa.C.S. §513:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §22 (15 P.S. §12322).

**17 Pa.C.S. §514:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §23 (15 P.S. §12323).

**17 Pa.C.S. §515:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §24 (third through last sentences) (15 P.S. §12324 (third through last sentences)).

**17 Pa.C.S. §516:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §29 (15 P.S. §12329), except that a verified statement is substituted for an affidavit.

**17 Pa.C.S. §517:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §31 (15 P.S. §12331).

**17 Pa.C.S. §701:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §6 (15 P.S. §12306), except that the size of a minimum potential membership group has been increased.

**17 Pa.C.S. §702:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §9 (first and second sentences) (15 P.S. §12309 (first and second sentences)).

**17 Pa.C.S. §703:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §9 (third and fourth sentences) (15 P.S. §12309 (third and fourth sentences)).

**17 Pa.C.S. §704:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §26 (15 P.S. §12326).

**17 Pa.C.S. §705:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §24 (first and second sentences) (15 P.S. §12324 (first and second sentences)).

**17 Pa.C.S. §706:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §10 (15 P.S. §12310), except the second sentence of subsection (a) which is new.

**17 Pa.C.S. §707:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §12A (except first through seventh sentences) (15 P.S. §12312A (except first through seventh sentences)).

**17 Pa.C.S. §708:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §12A (first through seventh sentences) and B (first sentence) (15 P.S. §12312A (first through seventh sentences) and §12312B (first sentence)).

**17 Pa.C.S. §709:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §12B (except first sentence) (15 P.S. §12312B (except first sentence)).

**17 Pa.C.S. §710:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §12C (15 P.S. §12312C).

**17 Pa.C.S. §711:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §12D.

**17 Pa.C.S. §712:** Derived from 15 Pa.C.S. §522 and act of September 20, 1961 (P.L.1548, No.658), §12E.

**17 Pa.C.S. §713:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §13 (15 P.S. §12313).

**17 Pa.C.S. §714:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §14 (15 P.S. §12314).

**17 Pa.C.S. §715:** Derived from 15 Pa.C.S. §523.

**17 Pa.C.S. §901:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §4 (first through third sentences) (15 P.S. §12304 (first through third sentences)).

**17 Pa.C.S. §902:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §4 (last sentence) (15 P.S. §12304 (last sentence)), except only one signature is required and the requirement of a verification is deleted.

**17 Pa.C.S. §903:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §4 (fourth sentence) (15 P.S. §12301 (fourth sentence)), except that the requirement that the Department of State issue a certificate of amendment is deleted.

**17 Pa.C.S. §904:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §25 (15 P.S. §12325).

**17 Pa.C.S. §1101:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §27A (15 P.S. §12327A), except that a certificate of vote by any officer is substituted for an affidavit of vote by two officers, including the secretary.

**17 Pa.C.S. §1102:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §27B (15 P.S. §12327B), except that the requirement that the Department of State issue a certificate of conversion is deleted.

**17 Pa.C.S. §1103:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §27C (first sentence) (15 P.S. §12327C (first sentence)).

**17 Pa.C.S. §1104:** Derived from act of September 20, 1961 (P.L.1548, No.658), §27C(1) (15 P.S. §12327C(1)). The absence of a vote by members where the domestic credit union is the surviving institution has been clarified, the reference to Federal and out-of-State procedures has been patterned after 15 Pa.C.S. §1925, and the nomenclature "adopted" has been substituted for "ratified."

**17 Pa.C.S. §1105:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §27C(2), (3) and (4) (15 P.S. §12327C(2), (3) and (4)), except that the absence of a vote by members where the domestic credit union is the surviving institution is clarified, execution of the articles requires only one signature, the requirements of affixation of a corporate seal and that the Department of State issue a certificate of merger or consolidation deleted, the continued applicability of Chapter 15 (relating to out-of-State credit unions) is clarified and the nomenclature "adopted" has been substituted for "ratified."



**17 Pa.C.S. §1106:** New.

**17 Pa.C.S. §1301:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §28A (15 P.S. §12328A).

**17 Pa.C.S. §1302:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §28B (15 P.S. §12328B), except that execution of the certificate requires only one signature, the requirement of verification is deleted and nomenclature "credit union" is substituted for "association."

**17 Pa.C.S. §1303:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §28C (15 P.S. §12328C). The term "successive weeks" is defined in 1 Pa.C.S. §1909.

**17 Pa.C.S. §1304:** Reenactment of act of September 20, 1961 (P.L.1548, No.658), §28D (15 P.S. §12328D).

**17 Pa.C.S. §1305:** Patterned after 15 Pa.C.S. §1989.

**17 Pa.C.S. §1501:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §31.1A. Compare 15 Pa.C.S. §4101(b)(1)(iii).

**17 Pa.C.S. §1502:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §31.1B, except that a reference to 42 Pa.C.S. §5301 is substituted for the former practice of designating agents for service of process.

**17 Pa.C.S. §1503:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §31.1C and D.

**17 Pa.C.S. §1504:** Substantially a reenactment of act of September 20, 1961 (P.L.1548, No.658), §31.1E. The words "as a credit union" added to make clear that a revocation under this section does not operate as a revocation under 15 Pa.C.S. §4128 with respect to activities other than credit union activities.

**Section 303:** New.

**Section 304:** New.

**Section 305:** The source notes for new 24 Pa.C.S. Pts. I and III are as follows:

**24 Pa.C.S. §102:** New.

**24 Pa.C.S. §6501:** Derived from act of May 5, 1933 (P.L.289, No.105), §211 (15 P.S. §7211) and act of May 7, 1937 (P.L.585, No.150), §2 (24 P.S. §2422).

**24 Pa.C.S. §6502:** Substantially a reenactment of act of May 5, 1933 (P.L.289, No.105), §312A (15 P.S. §7312A) and act of May 7, 1937 (P.L.585, No.150), §1 (24 P.S. §2421).

**24 Pa.C.S. §6503:** Derived from act of May 5, 1899 (P.L.253, No.148) (24 P.S. §§2491-92), act of May 5, 1933 (P.L.289, No.105), §§211, 312 and 902(4) (15 P.S. §§7211, 7312 and 7902(4)), act of May 7, 1937 (P.L.585, No.150), §2 (24 P.S. §2422), and act of November 15, 1972 (P.L.1063, No.271), §3 (24 P.S. §2426).

**24 Pa.C.S. §6504:** Derived from act of November 15, 1972 (P.L.1063, No.271), §4 (24 P.S. §2427).

**24 Pa.C.S. §6505:** Substantially a reenactment of act of May 5, 1899 (P.L.253, No.148) (24 P.S. §§2491-92) and act of May 5, 1933 (P.L.289, No.105), §312B (15 P.S. §7312B).

**24 Pa.C.S. §6506:** Derived from act of May 5, 1933 (P.L.289, No.105) §312C (15 P.S. §7312C).

**24 Pa.C.S. §6507:** Derived from act of May 7, 1937 (P.L.585, No.150), §3 (24 P.S. §2423).

**24 Pa.C.S. §6508:** Derived from act of May 7, 1937 (P.L.585, No.150), §4 (24 P.S. §2424).

**24 Pa.C.S. §6509:** Derived from act of May 7, 1937 (P.L.585, No.150), §5 (24 P.S. §2425).

**Section 306:** New. The provisions repealed by subsection (a) are supplied by the act as follows:

Official Citation	Superseding Provision
42 Pa.C.S. §8361	Omitted
42 Pa.C.S. §8362	Omitted
42 Pa.C.S. §8363(a)	15 Pa.C.S. §§512(a), (b), 1712(a), (b), 5712(a)
(b)	15 Pa.C.S. §§516(a), 1716(a), 5716(a)
(c)	15 Pa.C.S. §§516(b), 1716(b), 5716(b)
42 Pa.C.S. §8364	15 Pa.C.S. §§513, 1713, 5713
42 Pa.C.S. §8365	15 Pa.C.S. §§518, 1718, 5718
42 Pa.C.S. §8366	Bill §404(b)
42 Pa.C.S. §8367	Bill §404(b)

**Section 307:** New. 54 Pa.C.S. §311(f)(5), (6) and (7) are patterned after 15 Pa.C.S. §1303(c)(2)(iv), (c)(1)(iii) and (v), respectively.

**Section 308:** New.

**Section 309:** New. The unofficial citations of the statutes affected by this section are as follows:

Act	Section	Unofficial Citation
1921, No.284	337.6	40 P.S. §459.6
1947, No.140	2	63 P.S. §9.2 8.4 63 P.S. §9.8d 8.6 63 P.S. §9.8f
1966, (1965), No.581	2471.1(b)	53 P.S. §47471.1(b) 2471.2(k) 53 P.S. §47471.2(k)

**DIVISION IV**

**Section 401(a):** The provisions repealed by this subsection are supplied by this act as follows (an asterisk indicates that a provision is repealed in part):

Repealed Act	Section	Unofficial Citation	Superseding Provision of Title 15 (unless otherwise noted)
1899, No.148	1	24 P.S. §2491	24 Pa.C.S. §§6503, 6505
	2	24 P.S. §2492	24 Pa.C.S. §§6503, 6505
1929, No.175	618A*	71 P.S. §240.18A*	Ch. 1C
1929, No.176	730A*	72 P.S. §730*	Obsolete
1933, No.105	211	15 P.S. §7211	24 Pa.C.S. §6501
	312A	15 P.S. §7312A	24 Pa.C.S. §6502
	312B	15 P.S. §7312B	24 Pa.C.S. §6503
	312C	15 P.S. §7312C	24 Pa.C.S. §6504
	902(4)	15 P.S. §7902(4)	6123(a)
1937, No.150	1	24 P.S. §2421	24 Pa.C.S. §6502
	2	24 P.S. §2422	24 Pa.C.S. §§6501, 6503
	3	24 P.S. §2423	24 Pa.C.S. §6507
	4	24 P.S. §2424	24 Pa.C.S. §6508
	5	24 P.S. §2425	24 Pa.C.S. §6509
	6	Repealer	
1937, No.389	1	15 P.S. §12401	7301(a)
	2	15 P.S. §12402	7303
	3	15 P.S. §12403	7305
	4	15 P.S. §12404	5502, 7321
	5	15 P.S. §12405	7304
	6(a)	15 P.S. §12406(a)	7306(a)
	6(b)	15 P.S. §12406(b)	7321
	7	15 P.S. §12407	7307
	8	15 P.S. §12408	5318
	9	15 P.S. §12409	5319
	10	15 P.S. §12410	5320
	11	15 P.S. §12411	7322
	12	15 P.S. §12412	7323
	13	15 P.S. §12413	7324
	14	15 P.S. §12414	5704, 5755, 7325
	15	15 P.S. §12415	5704, 7325(c)
	16	15 P.S. §12416	7326
	17	15 P.S. §12417	7327
	18	15 P.S. §12418	7328
	19	15 P.S. §12419	5721, 5722, 7329(a)
20	15 P.S. §12420	5724, 5725, 5730, 7329(a)	
	21	15 P.S. §12421	7329(b)
	22	15 P.S. §12422	5727
	23	15 P.S. §12423	5703, 5705
	23.1	15 P.S. §12423.1	511, 512, 5721

	23.2	15 P.S. §12423.2	513, Subch. 57C
	24	15 P.S. §12424	5732, 5733
	25	15 P.S. §12425	5731
	26	15 P.S. §12426	7330
	27	15 P.S. §12427	Ch.59B
	28	15 P.S. §12428	Ch.59C, 7331(a)
	29	15 P.S. §12429	Ch.59F, 7332
	29.1	15 P.S. §12429(a)	5930, 7331(b)
	30	15 P.S. §12430	105
	31	15 P.S. §12431	7333
	32	15 P.S. §12432	7334
	33	15 P.S. §12433	7335
	34	15 P.S. §12434	Obsolete
	35	15 P.S. §12435	Obsolete
	36	15 P.S. §12436	7308
	37	15 P.S. §12437	1 Pa.C.S. §1925
	38	15 P.S. §12438	7302(b)
	39	-	Effective date
1967, No.345	513	7 P.S. §6020-73	522
1968, No.94	1	15 P.S. §12101	7501
	2	15 P.S. §12102	7504
	3	15 P.S. §12103	7504
	4	15 P.S. §12104	7502(a), 7503
	5	15 P.S. §12105	7502
	6	15 P.S. §12106	1 Pa.C.S. §1976
	7	15 P.S. §12107	133, 135
	8	15 P.S. §12108	7505
	9	15 P.S. §12109	7506
	10	15 P.S. §12110	1306, 5306, 7507
	11	15 P.S. §12111	1308, 5308
	12	15 P.S. §12112	1502, 5502, 7521
	12.1	15 P.S. §12112.1	1741 et seq. 5741 et seq.
	12.2	15 P.S. §12112.2	1508, 5508, 7522
	13	15 P.S. §12113	7523
	14(a)	15 P.S. §12114(a)	7524(a), (b), (c)
	14(b)	15 P.S. §12114(b)	7524(d)
	14(c)	15 P.S. §12114(c)	7524(e)
	14(d)	15 P.S. §12114(d)	7524(a)
	14(e)	15 P.S. §12114(e)	1528, 5753
	14(f)	15 P.S. §12114(f)	7524(f)
	14(g)	15 P.S. §12114(g)	1530
	15	15 P.S. §12115	7525
	16	15 P.S. §12116	7526
	17	15 P.S. §12117	1526, 5553, 7535
	18	15 P.S. §12118	1759, 5759, 7527
	19	15 P.S. §12119	1310, 1704, 5310, 5704, 7528

	20	15 P.S. §12120	7529
	21	15 P.S. §12121	1504, 5504, 7530
	22(a)	15 P.S. §12122(a)	7531(a)
	22(b)	15 P.S. §12122(b)	1703, 1724, 1725, 1727, 5703, 5724, 5725, 5727
	22(c)	15 P.S. §12122(c)	7531(b)
	22(d)	15 P.S. §12122(d)	7531(c)
	23	15 P.S. §12123	7533
	24(a)	15 P.S. §12124(a)	7532
	24(b)	15 P.S. §12214(b)	1733, 5733
	25	15 P.S. §12125	7534
	26	15 P.S. §12126	7535
	27(a)	15 P.S. §12127(a)	7536(a), (b)
	27(b)	15 P.S. §12127(b)	7536(c)
	27(c)	15 P.S. §12127(c)	7536(d)
	27(d)	15 P.S. §12127(d)	7531(d)
	27(e)	15 P.S. §12127(e)	7536(e)
	28	15 P.S. §12128	7537
	29	15 P.S. §12129	Chs.19, 59, 7529
	30	15 P.S. §12130	7538
	31	15 P.S. §12131	7102
	32	-	Repealed 1972
	33	15 P.S. §12133	7502
	34	15 P.S. §12134	Obsolete
	35	15 P.S. §12135	1 Pa.C.S. §1925
	36	-	Effective date
1971, No.2	403		
	(a)(3)*	72 P.S. §7403(a)(3)	1110
1972, No.182	1	71 P.S. §803.1	151(b)
	2	71 P.S. §803.2	152
	3	71 P.S. §803.3	153(a)
	4	71 P.S. §803.4	153(c)
	5	71 P.S. §803.5	153(b)
	6	71 P.S. §803.6	154(a), (b)
	7	71 P.S. §803.7	Obsolete
	8	71 P.S. §803.8	Omitted
	9	71 P.S. §803.9	Omitted
	10	-	Repealer
1972, No.271	3	15 Pa.C.S.A. §101 note	24 Pa.C.S. §6503
	4	15 Pa.C.S.A. §101 note	24 Pa.C.S. §6504
	8	15 Pa.C.S.A. §101 note	5110
1975, No.57	1	15 P.S. §3277	7301(b)
	1.1	15 P.S. §3277.1	7351(a)
	2	15 P.S. §3278	7352
	3	15 P.S. §3279	7353
	4	15 P.S. §3280	7354
	5	15 P.S. §3281	7355

	6	15 P.S. §3282	7356
	7	15 P.S. §3283	7357
	8	15 P.S. §3284	7358
	9	15 P.S. §3285	7351(b)
	10	15 P.S. §3286	7359
	11	15 P.S. §3287	7302(b)
	12	-	Effective date
1977, No.38	201*	40 P.S. §1141-201*	5306
1988, No.177	105	15 P.S. §20105	153(a)(13)
	301	15 P.S. §20301	Bill §403
	304(a)(6)	15 P.S. §20304(a)(6)	8103
	304(b)	15 P.S. §20304(b)	Bill §404(b)

**Section 401(b):** The provisions repealed by this subsection are supplied by this act as follows (an asterisk indicates that a provision is repealed in part):

Repealed Act	Section	Unofficial Citation	Superseding Provision of Title 15 (unless otherwise noted)
1865, No.1119	1	15 P.S. §424	1703(a), 1704(a)
1869, No.30	1	15 P.S. §405	1727(a)
1874, No.118	1	15 P.S. §103	1309
1887, No.274	1	15 P.S. §406	1724
	2	-	Validating section
	3	-	Repealed 1959
1891, No.77	1	15 P.S. §408	1730
1901, No.51	1	15 P.S. §403	1723
		15 P.S. §404	1723
1901, No.298	1	15 P.S. §110	1502
	2	-	Repealer
1903, No.17	1	15 P.S. §429	1759, 3135
	2	-	Repealer
1905, No.26	1	15 P.S. §428	1760, 1761
1913, No.222	1	15 P.S. §751	1551, 3122
	2	-	Repealer
1921, No.28	1	15 P.S. §422	1755
	2	15 P.S. §423	1704
1921, No.284	104	40 P.S. §364	Omitted
	106	40 P.S. §366	501(a)
	203	40 P.S. §383	103, 1301, 1302, 1306, 1502, 1507(a), Bill §§202, 203
	204	40 P.S. §384	1303(c)(1)(iii) and ICL §301.1
	205*	40 P.S. §385*	1306, 1521, 1523, 1524
	207	40 P.S. §387	1306, 1502(a)(1)

208	40 P.S. §388	Subch. 17B, 3131, Bill §203
209	40 P.S. §389	1524, 2103
210*	40 P.S. §400*	1306(a)(8)
211	40 P.S. §401	103, Subch.13A, Bill §203
213	40 P.S. §403	Subch. 1A, 1308, 1309, 42 Pa.C.S. Subch. 61A
214	40 P.S. §404	Omitted
301.2	40 P.S. §421.2	1521
302	40 P.S. §422	1521, 1523, 1524, 1528, 1529, 1530
303	40 P.S. §423	1502(a)(3), 1504, 3121, 3134, 3136
304	40 P.S. §424	Subch. 17A, 1755, 3133
305	40 P.S. §426	1756, 3134
306	40 P.S. §427	1760, 1764(b), 1765
307	40 P.S. §428	1760
308*	40 P.S. §429*	1722, 1723, 1724, 1725(b)(1), 1758(b), 3131
309	40 P.S. §432	1758, 1759, 1765
310	40 P.S. §433	1758(c)
311	40 P.S. §434	1755(b)(1), (c), 1756(b)(1)
312	40 P.S. §435	1502(c), 1721, 1727, 1730
313	40 P.S. §436	1765
314*	40 P.S. §437*	1502(a)(16), 1732, 3132
315	40 P.S. §438	1502(a)(13)
316	40 P.S. §439	1502(a)(14)
322*	40 P.S. §445*	Subch. 19B, §3133, Sec. 102 §204
323	40 P.S. §446	Subchs. 15B, 19B
324	40 P.S. §447	Subchs. 15B, 17A, 17D, 19B
325	40 P.S. §448	1522, Subch. 19B, Bill §206
326	40 P.S. §449	1525(e), 1530, Bill §205
327	40 P.S. §450	Subch. 19B, Bill §204(b)
328	40 P.S. §451	Subch. 19B, Bill §204(b)

	329	40 P.S. §452	Subch. 19B, Bill §204(b)
	330	40 P.S. §453	1758(b), 1763, 1764
	331	40 P.S. §454	Subch. 19B, Bill §205
	332	40 P.S. §455	Subch. 19C, Bill §205
	333	40 P.S. §456	Subch. 19C, Bill §205
	334	40 P.S. §457	1927, 1928, 1929
	335	40 P.S. §458	42 Pa.C.S. Subch. 61A
	336	40 P.S. §459	Subch. 15D, 1930
	337	40 P.S. §459a	Subch. 19C, Bill §205, 42 Pa.C.S. §§5301(a)(2)(i), 5322
	337.5	40 P.S. §459.5	1924(b)(1)(ii), 1931, Bill §205
	338	40 P.S. §460	139, Subchs. 19F, 19H, Bill §205
	340	40 P.S. §462	Ch. 41
	341	40 P.S. §463	Ch. 41
	343	40 P.S. §465	4141(b), GAA §302(c)
	344	40 P.S. §466	1502(a)(2)
	352	40 P.S. §477	1911(a)(5), 1914
	355	40 P.S. §477c	1502(a)(12), (19)
	532	40 P.S. §672	Subch. 19B, 3133 Bill §204
	607*	40 P.S. §727*	1306(a)(8)
	608	40 P.S. §728	Omitted
	751	40 P.S. §910-51	Subch. 19C, Bill §§205, 206
	752	40 P.S. §910-52	Subch. 15B, Bill §§205, 206
1923, No.8	1	15 P.S. §905	Obsolete
	2	15 P.S. §905 note	Validating section
	3	15 P.S. §906	42 Pa.C.S. §6103 42 Pa.C.S. §6104
1923, No.443	1	15 P.S. §601	1523
	2	15 P.S. §602	1530(b)
	3	-	Repealer
1925, No.131	1	15 P.S. §102	Obsolete
	2	-	Validating section



	3	-	Repealer
1925, No.329	1	15 P.S. §401	1505
	2	15 P.S. §402	1506
1925, No.368	1	15 P.S. §701	1502(a), 1525, 1530
	2	15 P.S. §702	Omitted
	3	-	Repealer
1927, No.260	1	41 P.S. §2	1510, 5510
	2	-	Repealer
1929, No.341	1	40 P.S. §430	1722, 1723
	2	40 P.S. §431	1758(b)
	3	40 P.S. §425	Subch. 17A, 1755, 3133
	4	40 P.S. §425 note	Omitted
	5	-	Repealer
1929, No.401	1	15 P.S. §411	1763
	2	15 P.S. §412	1763
	3	15 P.S. §413	1763
	4	-	Repealer
1945, No.249	1	15 P.S. §901	1502, 7 P.S. §6020-101, 7 P.S. §201(a)(vii)
	2	-	Effective date
1951, No.184	5	40 P.S. §623.5	1704, 1723, 1724 1725, 1755
1953, No.280	1	15 P.S. §703	1525, 7 P.S. §1409
1963, No.434	1	40 P.S. §553	1306(a)(8)
	2	40 P.S. §554	Validating provision
	3	-	Repealer

**Section 401(c):** New.

**Section 401(d):** The provisions repealed by this subsection are supplied by this act as follows:

Repealed Act	Section	Unofficial Citation	Superseding Provision of Title 17
1961, No.658	1	15 P.S. §12301	101
	2	15 P.S. §12302	102, 103, 301
	3A	15 P.S. §12303A	302
	3B	15 P.S. §12303B	303
	3C	15 P.S. §12303C	304
	4	15 P.S. §12304	102
	5A	15 P.S. §12305A	501(a)
	5B	15 P.S. §12305B	501(b)
	5C	15 P.S. §12305C	502(a)

5D	15 P.S. §12305D	502(b)
6	15 P.S. §12306	701
7	15 P.S. §12307	503
8	15 P.S. §12308	504
9	15 P.S. §12309	702, 703
10	15 P.S. §12310	706
11	15 P.S. §12311	305
12A	15 P.S. §12312A	707, 708
12B	15 P.S. §12312B	708, 709
12C	15 P.S. §12312C	710
13	15 P.S. §12313	713
14	15 P.S. §12314	714
15	15 P.S. §12315	505
16	15 P.S. §12316	506
17	15 P.S. §12317	507
18	15 P.S. §12318	509
19	15 P.S. §12319	510
20	15 P.S. §12320	511
21	15 P.S. §12321	512
22	15 P.S. §12322	513
23	15 P.S. §12323	514(a)
24	15 P.S. §12324	515, 705
25	15 P.S. §12325	904
26	15 P.S. §12326	704
27A	15 P.S. §12327A	1101
27B	15 P.S. §12327B	1102
27C	15 P.S. §12327C	1103, 1104, 1105
28A	15 P.S. §12328A	1301
28B	15 P.S. §12328B	1302
28C	15 P.S. §12328C	1303
28D	15 P.S. §12328D	1304
29	15 P.S. §12329	516
30	15 P.S. §12330	103, 104
31	15 P.S. §12331	517
32	15 P.S. §12332	Repealer
33	15 P.S. §12333	Effective date

**Section 401(e):** New.

**Section 402:** New. Patterned after section 303 of the act of December 21, 1988 (P.L.1444, No.177), known as the General Association Act of 1988.

**Section 403:** Derived from section 301 of the act of December 21, 1988 (P.L.1444, No.177), known as the General Association Act of 1988.

**Section 404:** New.

APPROVED—The 19th day of December, A. D. 1990.

ROBERT P. CASEY