

Chapter 401

(Senate Bill 888)

AN ACT concerning

Corporations and Associations – Limited Liability Companies and Partnerships – Series – Conversion

FOR the purpose of providing that, under certain circumstances, the personal representative or guardian of the last remaining member of a limited liability company shall automatically be admitted as a new member, unless a certain action is taken; authorizing certain persons to wind up the affairs of a limited liability company under certain circumstances; authorizing a court to wind up the affairs of a limited liability company on the application of certain persons under certain circumstances; requiring a certain foreign limited liability series company to make a certain submission to the State Department of Assessments and Taxation under certain circumstances; repealing certain obsolete provisions; defining certain terms; and generally relating to limited liability companies and partnerships.

BY repealing and reenacting, without amendments,
Article – Corporations and Associations
Section 4A–101(a) and 4A–606(5)
Annotated Code of Maryland
(2014 Replacement Volume and 2019 Supplement)

BY adding to
Article – Corporations and Associations
Section 4A–101(k), (s), (u), and (v)
Annotated Code of Maryland
(2014 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 4A–101(k) through (t), 4A–601, 4A–604, 4A–902, 4A–904, 4A–1002,
4A–1103, 9A–1203, 10–7A–03, and 12–1003
Annotated Code of Maryland
(2014 Replacement Volume and 2019 Supplement)

BY repealing
Article – Corporations and Associations
Section 4A–211
Annotated Code of Maryland
(2014 Replacement Volume and 2019 Supplement)

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

Article – Corporations and Associations

4A-101.

(a) In this title the following terms have the meanings indicated.

(K) “GUARDIAN” HAS THE MEANING STATED IN § 3-201 OF THE COURTS ARTICLE.

[(k)] (L) “Limited liability company” or “domestic limited liability company” means a permitted form of unincorporated business organization which is organized and existing under this title.

[(l)] (M) “Limited partnership” means a Maryland limited partnership or foreign limited partnership as defined in § 10-101 of this article.

[(m)] (N) “Member” means a person who has been admitted as a member of a limited liability company under § 4A-601 of this title or as a member of a foreign limited liability company, and who has not ceased to be a member.

[(n)] (O) “Membership interest” means a member’s economic interest and noneconomic interest in a limited liability company.

[(o)] (P) “Noneconomic interest” means all of the rights of a member in a limited liability company other than the member’s economic interest, including, unless otherwise agreed, the member’s right to:

- (1) Inspect the books and records of the limited liability company;
- (2) Participate in the management of and vote on matters coming before the limited liability company; and
- (3) Act as an agent of the limited liability company.

[(p)] (Q) “Operating agreement” means the agreement of the members and any amendments thereto, as to the affairs of a limited liability company and the conduct of its business.

[(q)] (R) “Partnership” means a partnership formed under the laws of this State, any other state, or under the laws of a foreign country.

(S) “PERSONAL REPRESENTATIVE” HAS THE MEANING STATED IN § 1-102 OF THE GENERAL PROVISIONS ARTICLE.

[(r)] (T) (1) “Professional service” has the meaning stated in § 5–101 of this article.

(2) “Professional service” includes a service provided by:

(i) An architect;

(ii) An attorney;

(iii) A certified public accountant;

(iv) A chiropractor;

(v) A dentist;

(vi) An osteopath;

(vii) A physician;

(viii) A podiatrist;

(ix) A professional engineer;

(x) A psychologist;

(xi) A licensed real estate broker, licensed associate real estate broker, or licensed real estate salesperson; or

(xii) A veterinarian.

(U) “SERIES COMPANY” MEANS A FOREIGN LIMITED LIABILITY COMPANY THAT HAS BEEN ESTABLISHED AND CONTINUES TO OPERATE UNDER A SERIES STATUTE.

(V) “SERIES STATUTE” MEANS THE STATUTORY PROVISIONS OF A FOREIGN JURISDICTION THAT:

(1) ALLOW THE ESTABLISHMENT OF DESIGNATED SERIES, EACH OF WHICH IS LIABLE ONLY FOR THE DEBTS, LIABILITIES, OBLIGATIONS, AND EXPENSES OF THAT SERIES AND IS NOT LIABLE FOR THE DEBTS, LIABILITIES, OBLIGATIONS, AND EXPENSES OF THE FOREIGN LIMITED LIABILITY COMPANY GENERALLY OR OF ANY OTHER SERIES OF THE FOREIGN LIMITED LIABILITY COMPANY; OR

(2) PROVIDE THAT THE DEBTS, LIABILITIES, OBLIGATIONS, AND EXPENSES INCURRED OR CONTRACTED FOR WITH RESPECT TO THE FOREIGN

LIMITED LIABILITY COMPANY GENERALLY OR ANY OTHER SERIES OF THE FOREIGN LIMITED LIABILITY COMPANY ARE ENFORCEABLE ONLY AGAINST THE ASSETS OF THE FOREIGN LIMITED LIABILITY COMPANY GENERALLY OR THE OTHER SERIES OF THE FOREIGN LIMITED LIABILITY COMPANY.

[(s)] (w) “State” means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

[(t)] (x) “Unless otherwise agreed” means unless otherwise stated:

- (1) In the articles of organization;
- (2) In the operating agreement; or
- (3) By unanimous consent of the members and any other person whose consent is required by the operating agreement.

[4A–211.

(a) A partnership may convert to a limited liability company by filing articles of organization that meet the requirements of § 4A–204 of this subtitle and include the following:

- (1) The name of the former general partnership or limited partnership; and
- (2) The date of formation of the partnership and place of filing of the initial statement of partnership, if any, or certificate of limited partnership of the former general partnership or limited partnership.

(b) (1) The terms and conditions of a conversion of a general or limited partnership to a limited liability company shall be approved by the partners in the manner provided in the partnership’s partnership agreement for amendments to the partnership agreement or, if no such provision is made in a partnership agreement, by unanimous agreement of the partners.

(2) A conversion may be abandoned by:

(i) A vote of the partners in the manner provided in the partnership’s partnership agreement for amendments to the partnership agreement; or

(ii) Unanimous agreement of the partners, if no such provision is made in the partnership agreement.

(c) (1) A general partner of a limited partnership or a partner of a general partnership who becomes a member of a limited liability company as a result of the

conversion remains liable as a general partner of a limited partnership or a partner of a general partnership for any obligation or liability of the partnership incurred or arising before the conversion takes effect, to the extent that the partner or general partner would have been obligated or liable if the conversion had not occurred.

(2) The partner's or general partner's liability for all obligations or liabilities of the limited liability company incurred or arising after the conversion takes effect is that of a member of a limited liability company, as provided in this title.]

4A-601.

(a) A person becomes a member of a limited liability company at:

(1) The time the limited liability company is formed;

(2) A later time specified in the operating agreement; or

(3) The time specified in [§ 4A-902(b)(1)] **§ 4A-902(B)** of this title relating to continuation of the limited liability company after there are no remaining members.

(b) After the formation of a limited liability company, a person may be admitted as a member:

(1) In the case of a person acquiring a membership interest directly from the limited liability company, upon compliance with the operating agreement or, if the operating agreement does not so provide, upon the unanimous consent of the members;

(2) In the case of an assignee of the economic interest of a member, only as provided in § 4A-604 of this subtitle; or

(3) In the case of a [personal representative or] successor to the last remaining member who is not an assignee of the last remaining member, as provided in [§ 4A-902(b)(1)] **§ 4A-902(B)** of this title.

(c) Unless otherwise agreed, a person may be admitted as a member of a limited liability company and may be the sole member of a limited liability company without:

(1) Making a capital contribution to the limited liability company;

(2) Being obligated to make a capital contribution to the limited liability company; or

(3) Acquiring an economic interest in the limited liability company.

4A-604.

(a) An assignee of an economic interest in a limited liability company may become a member of the limited liability company under any of the following circumstances:

(1) In accordance with the terms of the operating agreement providing for the admission of a member;

(2) By the unanimous consent of the members; or

(3) If there are no remaining members of the limited liability company at the time the assignee obtains the economic interest, on terms that the assignee may determine in accordance with [§ 4A-902(b)(1)] **§ 4A-902(B)(1)(I)** of this title.

(b) An assignee who becomes a member:

(1) Has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a member under the operating agreement and this title; and

(2) Is liable for any obligations of his assignor to make capital contributions.

4A-606.

Unless otherwise agreed, a person ceases to be a member of a limited liability company upon the occurrence of any of the following events:

(5) In the case of a member who is an individual, the individual's:

(i) Death; or

(ii) Adjudication by a court of competent jurisdiction as incompetent to manage the individual's person or property;

4A-902.

(a) A limited liability company is dissolved and shall commence the winding up of its affairs on the first to occur of the following:

(1) At the time or on the happening of the events specified in the articles of organization or the operating agreement;

(2) At the time specified by the unanimous consent of the members;

(3) At the time of the entry of a decree of judicial dissolution under § 4A-903 of this subtitle; or

(4) Unless otherwise agreed or as provided in subsection (b) of this section, at the time the limited liability company has had no members for a period of 90 consecutive days.

(b) (1) A limited liability company may not be dissolved or required to wind up its affairs if within 90 days after there are no remaining members of the limited liability company or within the period of time provided in the operating agreement:

[(1)] (I) The last remaining member's [personal representative,] successor[,] or assignee agrees in writing to continue the limited liability company and to be admitted as a member or to appoint a designee as a member to be effective as of the time the last remaining member ceased to be a member; or

[(2)] (II) A member is admitted to the limited liability company in the manner set forth in the operating agreement to be effective as of the time the last remaining member ceased to be a member under a provision in the operating agreement that provides for the admission of a member after there are no remaining members.

(2) IF A NEW MEMBER IS NOT ADMITTED TO THE LIMITED LIABILITY COMPANY IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, AND THE LAST REMAINING MEMBER CEASED TO BE A MEMBER UNDER § 4A-606(5) OF THIS TITLE, THE LAST REMAINING MEMBER'S PERSONAL REPRESENTATIVE OR GUARDIAN SHALL AUTOMATICALLY BE ADMITTED AS A NEW MEMBER OF THE LIMITED LIABILITY COMPANY, EFFECTIVE IMMEDIATELY ON THE HAPPENING OF THE EVENT DESCRIBED IN § 4A-606(5) OF THIS TITLE, UNLESS WITHIN 90 DAYS AFTER THE PERSONAL REPRESENTATIVE OR GUARDIAN FIRST HAS KNOWLEDGE OF THE EVENT, THE PERSONAL REPRESENTATIVE OR GUARDIAN:

(I) RENOUNCES THAT ADMISSION IN WRITING; OR

(II) DESIGNATES A PERSON TO BECOME A NEW MEMBER, AND THE DESIGNEE ACCEPTS THE DESIGNEE'S ADMISSION IN WRITING OR BY ELECTRONIC COMMUNICATION TO THE PERSONAL REPRESENTATIVE OR GUARDIAN.

(c) An operating agreement may provide that the last remaining member's personal representative, **GUARDIAN**, successor, or assignee shall be obligated to agree in writing to continue the limited liability company and to be admitted as a member or to appoint a designee as a member to be effective as of the time the last remaining member ceased to be a member.

(d) Unless otherwise agreed and subject to the provisions of [subsection (b)] **SUBSECTIONS (A)(4) AND (B)** of this section, the termination of a person's membership may not cause a limited liability company to be dissolved or to wind up its affairs and the limited liability company shall continue in existence following the termination of a person's membership.

4A-904.

(a) Unless otherwise agreed, the remaining members of a limited liability company **OR, IF THE COMPANY HAS NO REMAINING MEMBERS, THE PERSONAL REPRESENTATIVE, GUARDIAN, OR OTHER SUCCESSOR TO THE LAST REMAINING MEMBER OF THE COMPANY** may wind up the affairs of the limited liability company.

(b) Notwithstanding the provisions of subsection (a) of this section, the circuit court of the county in which the principal office of the limited liability company is located, on cause shown after dissolution, may wind up the limited liability company's affairs on application of any member **OR, IF THE LIMITED LIABILITY COMPANY HAS NO REMAINING MEMBERS, ON APPLICATION OF THE PERSONAL REPRESENTATIVE, GUARDIAN, OR OTHER SUCCESSOR TO THE LAST REMAINING MEMBER OF THE LIMITED LIABILITY COMPANY.**

4A-1002.

(a) Before doing any interstate, intrastate, or foreign business in this State, a foreign limited liability company shall register with the Department.

(b) In order to register, a foreign limited liability company shall submit to the Department an application for registration as a foreign limited liability company executed by an authorized person and setting forth:

(1) The name of the foreign limited liability company and, if different, the name under which it proposes to register and do business in this State;

(2) The state under whose laws it was formed and the date of its formation;

(3) The general character of the business it proposes to transact in this State;

(4) The name and address of its resident agent in this State;

(5) A statement that the Department is appointed as the resident agent of the foreign limited liability company if no resident agent has been appointed under item (4) of this subsection or, if appointed, the resident agent's authority has been revoked or if the agent cannot be found or served with the exercise of reasonable diligence;

(6) The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited liability company; **[and]**

(7) Proof acceptable to the Department of good standing in the jurisdiction where it currently is organized; AND

(8) IF THE FOREIGN LIMITED LIABILITY COMPANY IS A SERIES COMPANY, A STATEMENT THAT THE COMPANY IS A SERIES COMPANY ~~AND THE NAME OR OTHER DESIGNATION OF EACH SERIES OF THE LIMITED LIABILITY COMPANY DOING BUSINESS IN MARYLAND.~~

4A-1103.

(a) In this section, “facts ascertainable outside the articles of conversion” includes:

(1) An action or a determination by any person, including:

(i) The limited liability company or other entity, as applicable;

(ii) The members, partners, directors, trustees, officers, or other agents of the limited liability company or other entity; and

(iii) Any other person affiliated with the limited liability company or other entity; and

(2) Any other event.

(b) Articles of conversion shall be filed for record with the Department.

(c) In a conversion of a limited liability company to an other entity, the articles of conversion shall set forth:

(1) The name of the limited liability company and the date of filing of the original articles of organization with the Department;

(2) The name of the other entity to which the limited liability company will be converted and the place of incorporation or organization of the other entity;

(3) A statement that the conversion has been approved in accordance with the provisions of this subtitle;

(4) The manner and basis of converting or exchanging membership interests in the limited liability company into shares of stock, membership interests, partnership interests, beneficial interests, or other ownership interests of the other entity, or other consideration, and the treatment of any membership interests not to be converted or exchanged, any of which may be made dependent on facts ascertainable outside the articles of conversion;

(5) [The future effective time, which shall be a time certain, of the articles of conversion, if the articles of conversion are not to be effective on the acceptance for record of the articles of conversion;

(6)] If the other entity is not organized under the laws of this State:

(i) The location of the principal office in the place where it is organized; and

(ii) The name and address of the resident agent in this State; and

[(7)] (6) Any other provision necessary to effect the conversion.

(d) In a conversion of an other entity to a limited liability company, the articles of conversion shall set forth:

(1) The name of the other entity, the date on which the other entity was first created, and the place of incorporation or organization of the other entity;

(2) The name of the limited liability company to which the other entity will be converted;

(3) A statement that the conversion has been approved in accordance with the provisions of this subtitle;

(4) The manner and basis of converting or exchanging any outstanding shares of stock, membership interests, partnership interests, beneficial interests, or other ownership interests of the other entity into membership interests in the limited liability company or other consideration, and the treatment of any outstanding shares of stock, membership interests, partnership interests, beneficial interests, or other ownership interests not to be converted or exchanged, any of which may be made dependent on facts ascertainable outside the articles of conversion; **AND**

(5) [The future effective time, which shall be a time certain, of the articles of conversion, if the articles of conversion are not to be effective on the acceptance for record of the articles of conversion; and

(6)] Any other provision necessary to effect the conversion.

(e) The articles of conversion may contain a future effective time for the articles of conversion that is not later than 30 days after the articles of conversion are accepted for record.

9A-1203.

(a) In this section, “facts ascertainable outside the articles of conversion” includes:

- (1) An action or a determination by any person, including:
 - (i) The partnership or other entity, as applicable;
 - (ii) The partners, members, directors, trustees, officers, or other agents of the partnership or other entity; and
 - (iii) Any other person affiliated with the partnership or other entity;and
 - (2) Any other event.
- (b) Articles of conversion shall be filed for record with the Department.
- (c) In a conversion of a partnership organized under the laws of this State to an other entity, the articles of conversion shall set forth:
- (1) The name of the partnership and the date of filing of its original statement of partnership authority or certificate of limited liability partnership with the Department;
 - (2) The name of the other entity to which the partnership will be converted and the place of incorporation or organization of the other entity;
 - (3) A statement that the conversion has been approved in accordance with the provisions of this subtitle;
 - (4) The manner and basis of converting or exchanging partnership interests in the partnership into shares of stock, membership interests, partnership interests, beneficial interests, or other ownership interests of the other entity, or other consideration, and the treatment of any partnership interests not to be so converted or exchanged, any of which may be made dependent on facts ascertainable outside the articles of conversion;
 - (5) [The future effective time, which shall be a time certain, of the articles of conversion, if the articles of conversion are not to be effective on the acceptance for record of the articles of conversion;
 - (6)] If the other entity is not organized under the laws of this State:
 - (i) The location of the principal office in the place where it is organized; and
 - (ii) The name and address of the resident agent in this State; and

[(7)] (6) Any other provision necessary to effect the conversion.

(d) In a conversion of an other entity to a partnership organized under the laws of this State, the articles of conversion shall set forth:

(1) The name of the other entity, the date on which the other entity was first created, and the place of incorporation or organization of the other entity;

(2) The name of the partnership to which the other entity will be converted;

(3) A statement that the conversion has been approved in accordance with the provisions of this subtitle;

(4) The manner and basis of converting or exchanging any outstanding shares of stock, membership interests, partnership interests, beneficial interests, or other ownership interests of the other entity into partnership interests in the partnership or other consideration, and the treatment of any outstanding shares of stock, membership interests, partnership interests, beneficial interests, or other ownership interests not to be converted or exchanged, any of which may be made dependent on facts ascertainable outside the articles of conversion; **AND**

(5) [The future effective time, which shall be a time certain, of the articles of conversion, if the articles of conversion are not to be effective on the acceptance for record of the articles of conversion; and

(6)] Any other provision necessary to effect the conversion.

(e) The articles of conversion may contain a future effective time for the articles of conversion that is not later than 30 days after the articles of conversion are accepted for record.

10-7A-03.

(a) In this section, “facts ascertainable outside the articles of conversion” includes:

(1) An action or a determination by any person, including:

(i) The limited partnership or other entity, as applicable;

(ii) The partners, members, directors, trustees, officers, or other agents of the limited partnership or other entity; and

(iii) Any other person affiliated with the limited partnership or other entity; and

(2) Any other event.

(b) Articles of conversion shall be filed for record with the Department.

(c) In a conversion of a limited partnership to an other entity, the articles of conversion shall set forth:

(1) The name of the limited partnership and the date of filing of its original certificate of limited partnership with the Department;

(2) The name of the other entity to which the limited partnership will be converted and the place of incorporation or organization of the other entity;

(3) A statement that the conversion has been approved in accordance with the provisions of this subtitle;

(4) The manner and basis of converting or exchanging partnership interests in the limited partnership into shares of stock, membership interests, partnership interests, beneficial interests, or other ownership interests of the other entity, or other consideration, and the treatment of any partnership interests not to be converted or exchanged, any of which may be made dependent on facts ascertainable outside the articles of conversion;

(5) [The future effective time, which shall be a time certain, of the articles of conversion, if the articles of conversion are not to be effective on the acceptance for record of the articles of conversion;

(6)] If the other entity is not organized under the laws of this State:

(i) The location of the principal office in the place where it is organized; and

(ii) The name and address of the resident agent in this State; and

[(7)] (6) Any other provision necessary to effect the conversion.

(d) In a conversion of another entity to a limited partnership, the articles of conversion shall set forth:

(1) The name of the other entity, the date on which the other entity was first created, and the place of incorporation or organization of the other entity;

(2) The name of the limited partnership to which the other entity will be converted;

(3) A statement that the conversion has been approved in accordance with the provisions of this subtitle;

(4) The manner and basis of converting or exchanging any outstanding shares of stock, membership interests, partnership interests, beneficial interests, or other ownership interests of the other entity into partnership interests in the limited partnership or other consideration, and the treatment of any outstanding shares of stock, membership interests, partnership interests, beneficial interests, or other ownership interests not to be converted or exchanged, any of which may be made dependent on facts ascertainable outside the articles of conversion; **AND**

(5) [The future effective time, which shall be a time certain, of the articles of conversion, if the articles of conversion are not to be effective on the acceptance for record of the articles of conversion; and

(6)] Any other provision necessary to effect the conversion.

(e) The articles of conversion may contain a future effective time for the articles of conversion that is not later than 30 days after the articles of conversion are accepted for record.

12-1003.

(a) In this section, “facts ascertainable outside the articles of conversion” includes:

(1) An action or determination by any person, including:

(i) The statutory trust or other entity, as applicable;

(ii) The trustees, directors, partners, members, officers, or other agents of the statutory trust or other entity; and

(iii) Any other person affiliated with the statutory trust or other entity; and

(2) Any other event.

(b) Articles of conversion shall be filed for record with the Department.

(c) In a conversion of a statutory trust to an other entity, the articles of conversion shall set forth:

(1) The name of the statutory trust and the date of filing of its original certificate of trust with the Department;

(2) The name of the other entity to which the statutory trust will be converted and the place of incorporation or organization of the other entity;

(3) A statement that the conversion has been approved in accordance with the provisions of this subtitle;

(4) The manner and basis of converting or exchanging issued beneficial interests of the statutory trust into shares of stock, membership interests, partnership interests, beneficial interests, or other ownership interests of the other entity, or other consideration, and the treatment of any issued beneficial interests not to be converted or exchanged, any of which may be made dependent on facts ascertainable outside of the articles of conversion;

(5) [The future effective time, which shall be a time certain, of the articles of conversion, if the articles of conversion are not to be effective on the acceptance for record of the articles of conversion;

~~(6)~~ If the other entity is not organized under the laws of this State:

(i) The location of the principal office in the place where it is organized; and

(ii) The name and address of the resident agent in this State; and

~~[(7)]~~ **(6)** Any other provision necessary to effect the conversion.

(d) In a conversion of an other entity to a statutory trust, the articles of conversion shall set forth:

(1) The name of the other entity, the date on which the other entity was first created, and the place of incorporation or organization of the other entity;

(2) The name of the statutory trust to which the other entity will be converted;

(3) A statement that the conversion has been approved in accordance with the provisions of this subtitle;

(4) The manner and basis of converting or exchanging any outstanding shares of stock, membership interests, partnership interests, beneficial interests, or other ownership interests of the other entity into beneficial interests of the statutory trust, or other consideration, and the treatment of any outstanding shares of stock, membership interests, partnership interests, beneficial interests, or other ownership interests not to be converted or exchanged, any of which may be made dependent on facts ascertainable outside of the articles of conversion; **AND**

(5) [The future effective time, which shall be a time certain, of the articles of conversion, if the articles of conversion are not to be effective on the acceptance for record of the articles of conversion; and

(6)] Any other provision necessary to effect the conversion.

(e) The articles of conversion may contain a future effective time of the articles of conversion that is not later than 30 days after the articles of conversion are accepted for record.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 8, 2020.