

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 431

(Senators West and Waldstreicher)

Judicial Proceedings

Economic Matters

Corporations and Associations - Revisions

This bill alters numerous miscellaneous provisions of the Corporations and Associations Article, including those relating to (1) limited existence corporations; (2) stockholder participation in meetings by remote communication; (3) indirectly owned shares of stock; (4) mergers between parent and subsidiary corporations; and (5) dissolution of a corporation. The bill also makes other technical and clarifying changes.

Fiscal Summary

State Effect: The bill does not directly affect State finances or operations.

Local Effect: The bill does not directly affect local finances or operations.

Small Business Effect: Potential minimal.

Analysis

Bill Summary/Current Law:

Charter Provisions Specifying a Corporation's Limited Existence

Under current law, a corporation's existence may be limited by charter to a specified period. The bill establishes that the specific period of a corporation's limited existence may also be conditioned on the occurrence of an event, an action, or a determination set forth in the charter.

Electronic Transmission of a Corporate Director's Dissent

Under current law, a director of a corporation who is present at a board meeting at which action on any corporate matter is taken is presumed to have assented to the action unless the director announces the director's dissent at the meeting and (1) the dissent is entered in the minutes of the meeting; (2) the director files a written dissent to the action with the secretary of the meeting before the meeting is adjourned; or (3) the director forwards the written dissent with 24 hours after the meeting is adjourned by certified mail, as specified, to the secretary of the meeting or the secretary of the corporation. Under the bill, the dissent may also be filed or forwarded by electronic transmission.

Insurance for Service Relating to a Limited Liability Company

Under current law, a corporation may purchase and maintain insurance, as specified, on behalf of any person who is or was serving at the request of the corporation in connection with another foreign or domestic corporation, partnership, joint venture, trust, other enterprise, or employee benefit plan. The bill specifies that a corporation may also purchase and maintain such insurance on behalf of any person who is or was serving at the request of the corporation in connection with a limited liability company.

Stockholder Participation in Meetings by Remote Communication

Under current law, a board of directors may authorize stockholders and proxy holders who are not physically present at a stockholders' meeting to participate by remote communication, to be considered present in person, and to vote at the meeting, as specified. The bill repeals a separate provision that similarly authorizes a corporation to allow stockholders to participate in a meeting by means of a conference telephone or other communications equipment if all meeting participants can read or hear the proceedings substantially concurrently with the proceedings, and thereby be considered present at the meeting.

Indirectly Owned Shares of Stock

Under current law, shares of a corporation's own stock are considered owned indirectly by the corporation if owned by another *corporation* in which the corporation owns *shares* entitled to cast a majority of all the votes entitled to be cast by all *shares* outstanding and entitled to vote. The bill specifies that this provision also applies to shares if owned by other *entities* in which the corporation owns shares *or interests* entitled to cast a majority of all the votes entitled to be cast by *holders of all shares or interests* outstanding and entitled to vote.

Merger of a Parent Corporation with or into a Subsidiary

Generally, a consolidation, merger, share exchange, or transfer of assets must be approved by a corporation's stockholders in a specified manner. However, current law (§ 3-106.2 of the Corporations and Associations Article) also provides a simplified process for the merger of a Maryland parent corporation with or into a single direct or indirect wholly owned subsidiary corporation of the Maryland parent corporation. Under this simplified procedure, a vote of the stockholders of the parent corporation is not necessary to authorize a merger with or into a single subsidiary of the parent corporation if specified conditions exist. The bill further specifies that a merger of a Maryland corporation in accordance with § 3-106.2 need only be approved in this simplified manner, rather than what would otherwise generally be required.

Abandonment of Proposed Consolidations, Mergers, or Share Exchanges

Currently, a proposed consolidation, merger, or share exchange may be abandoned before the effective date, as specified, by the majority vote of specified boards of directors and/or boards of trustees that are parties to the articles. The bill establishes that a proposed consolidation, merger, or share exchange may be similarly abandoned by the governing body of other entity parties to the articles, as specified. The bill further specifies conditions under which notice of the abandonment must be given promptly to the State Department of Assessments and Taxation (SDAT).

Corporate Dissolution

Generally, under current law, a corporation is dissolved when SDAT accepts its articles of dissolution for record. The bill specifies that a corporation is dissolved upon the later of (1) SDAT accepting the articles of dissolution for record or (2) the time established under the articles, not to exceed 30 days after the articles are accepted for record.

Additional Comments: The bill implements recommendations of the Maryland State Bar Association, whose Committee on Corporation Law regularly reviews the Corporations and Associations Article in an attempt to clarify unclear provisions and eliminate outdated language.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 999 (Delegate Brooks) - Economic Matters.

Information Source(s): State Department of Assessments and Taxation; Department of Legislative Services

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