

Chapter 111

(House Bill 1171)

AN ACT concerning

Corporations and Associations – Revisions

FOR the purpose of establishing a process for the transfer of assets that are collateral for securing a mortgage, pledge, or security interest without the approval of the stockholders; establishing certain exceptions to the process for the transfer of assets that are secured collateral without the approval of the stockholders; repealing provisions of law specifying what shall be included in the articles of merger if a limited partnership, limited liability company, or partnership is a party to the articles; and generally relating to corporations and associations.

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 2–411(e), 3–104, and 3–109(d)
Annotated Code of Maryland
(2014 Replacement Volume and 2024 Supplement)

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

Article – Corporations and Associations

2–411.

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

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

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

3–104.

(a) Notwithstanding any other provision of this subtitle, unless the charter or bylaws of a corporation provide otherwise by reference to this section or the subject matter of this section, the approval of the stockholders is not required for any:

(1) Transfer of assets by a corporation in the ordinary course of business actually conducted by it or as a distribution as defined in § 2–301 of this article;

(2) Mortgage, pledge, or creation of any other security interest in any or all of the assets of a corporation, whether or not in the ordinary course of its business;

(3) Transfer of assets by a corporation to one or more persons if all of the equity interests of the person or persons are owned, directly or indirectly, by the corporation;

(4) Transfer of assets by a corporation registered as an open–end investment company under the Investment Company Act of 1940, including a transfer between or among classes or series of stock of a corporation; or

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

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

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

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

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

(II) THE REAL PROPERTY ARTICLE; OR

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

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

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

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

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

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

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

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

(II) ACTED IN GOOD FAITH.

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

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

(II) A CLAIM FOR EQUITABLE RELIEF.

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

3-109.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved by the Governor, April 22, 2025.