



SPONSOR: Sen. Brown & Sen. Hansen & Sen. Townsend &  
Sen. Delcollo & Rep. Bush & Rep. Griffith & Rep. Lynn  
Sen. Ennis; Reps. Mitchell, Smyk, Spiegelman

DELAWARE STATE SENATE  
150th GENERAL ASSEMBLY

SENATE BILL NO. 88

AN ACT TO AMEND TITLE 8 OF THE DELAWARE CODE RELATING TO THE GENERAL CORPORATION LAW.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

1 Section 1. Amend § 108, Title 8 of the Delaware Code by making deletions as shown by strike through and  
2 insertions as shown by underline as follows:

3 § 108 Organization meeting of incorporators or directors named in certificate of incorporation.

4 (b) The persons calling the meeting shall give to each other incorporator or director, as the case may be, at least 2  
5 days' ~~written~~ notice thereof in writing or by electronic transmission by any usual means of communication, which notice  
6 shall state the time, place and purposes of the meeting as fixed by the persons calling it. Notice of the meeting need not be  
7 given to anyone who attends the meeting or who ~~signs a waiver of~~ waives notice either before or after the meeting.

8 (c) Any action permitted to be taken at the organization meeting of the incorporators or directors, as the case may  
9 be, may be taken without a meeting if each incorporator or director, where there is more than 1, or the sole incorporator or  
10 director where there is only 1, ~~signs an instrument which states the action so taken~~ consents thereto in writing or by  
11 electronic transmission. Any person (whether or not then an incorporator or director) may provide, whether through  
12 instruction to an agent or otherwise, that a consent to action will be effective at a future time (including a time determined  
13 upon the happening of an event), no later than 60 days after such instruction is given or such provision is made and such  
14 consent shall be deemed to have been given for purposes of this subsection at such effective time so long as such person is  
15 then an incorporator or director, as the case may be, and did not revoke the consent prior to such time. Any such consent  
16 shall be revocable prior to its becoming effective.

17 Section 2. Amend Title 8 of the Delaware Code to add a new § 116 as shown by underline as follows:

18 § 116. Document Form, Signature and Delivery.

19 (a) Except as provided in subsection (b) of this section, without limiting the manner in which any act or  
20 transaction may be documented, or the manner in which a document may be signed or delivered:

21 (1) Any act or transaction contemplated or governed by this chapter or the certificate of incorporation or  
22 bylaws may be provided for in a document, and an electronic transmission shall be deemed the equivalent of a written

23 document. "Document" means (i) any tangible medium on which information is inscribed, and includes handwritten,  
24 typed, printed or similar instruments, and copies of such instruments and (ii) an electronic transmission.

25 (2) Whenever this chapter or the certificate of incorporation or bylaws requires or permits a signature, the  
26 signature may be a manual, facsimile, conformed or electronic signature. "Electronic signature" means an electronic  
27 symbol or process that is attached to, or logically associated with, a document and executed or adopted by a person  
28 with an intent to authenticate or adopt the document.

29 (3) Unless otherwise agreed between the sender and recipient, an electronic transmission shall be deemed  
30 delivered to a person for purposes of this chapter and the certificate of incorporation and bylaws when it enters an  
31 information processing system that the person has designated for the purpose of receiving electronic transmissions of  
32 the type delivered, so long as the electronic transmission is in a form capable of being processed by that system and  
33 such person is able to retrieve the electronic transmission. Whether a person has so designated an information  
34 processing system is determined by the certificate of incorporation, the bylaws or from the context and surrounding  
35 circumstances, including the parties' conduct. An electronic transmission is delivered under this section even if no  
36 person is aware of its receipt. Receipt of an electronic acknowledgement from an information processing system  
37 establishes that an electronic transmission was received but, by itself, does not establish that the content sent  
38 corresponds to the content received.

39 This chapter shall not prohibit one or more persons from conducting a transaction in accordance with Chapter 12A  
40 of Title 6 so long as the part or parts of the transaction that are governed by this chapter are documented, signed and  
41 delivered in accordance with this subsection (a) or otherwise in accordance with this chapter. This subsection (a) shall apply  
42 solely for purposes of determining whether an act or transaction has been documented, and the document has been signed  
43 and delivered, in accordance with this chapter, the certificate of incorporation and the bylaws.

44 (b) Subsection (a) of this section shall not apply to: (1) a document filed with or submitted to the Secretary of  
45 State, the Register in Chancery, or a court or other judicial or governmental body of this State; (2) a document comprising  
46 part of the stock ledger; (3) a certificate representing a security; (4) any document expressly referenced as a notice (or  
47 waiver of notice) by this chapter, the certificate of incorporation or bylaws; (5) a consent in lieu of a meeting given by a  
48 director, stockholder or incorporator; (6) a ballot to vote on actions at a meeting of stockholders; and (7) an act or  
49 transaction effected pursuant to Section 280 or subchapters III, XIII or XVI of this chapter. The foregoing shall not create  
50 any presumption about the lawful means to document a matter addressed by this subsection (b), or the lawful means to sign  
51 or deliver a document addressed by this subsection (b). A provision of the certificate of incorporation or bylaws shall not

52 limit the application of subsection (a) of this section unless the provision expressly restricts one or more of the means of  
53 documenting an act or transaction, or of signing or delivering a document, permitted by subsection (a).

54 (c) In the event that any provision of this chapter is deemed to modify, limit or supersede the Electronic  
55 Signatures in Global and National Commerce Act, [15 U.S.C. [§§] 7001 et. seq.], the provisions of this chapter shall control  
56 to the fullest extent permitted by section 7002(a)(2) of such act.

57 Section 3. Amend § 136, Title 8 of the Delaware Code by making deletions as shown by strike through and  
58 insertions as shown by underline as follows:

59 § 136 Resignation of registered agent not coupled with appointment of successor.

60 (a) The registered agent of ~~1 or more corporations~~ a corporation, including a corporation which has become void  
61 pursuant to Section 510 of this title, may resign without appointing a successor by filing a certificate of resignation with the  
62 Secretary of State, but such resignation shall not become effective until 30 days after the certificate is filed. The certificate  
63 shall be executed and acknowledged by the registered agent, shall contain a statement that written notice of resignation was  
64 given to ~~each affected~~ the corporation at least 30 days prior to the filing of the certificate by mailing or delivering such  
65 notice to the corporation at its address last known to the registered agent and shall set forth the date of such notice. The  
66 certificate shall include such information last provided to the registered agent pursuant to Section 132(d) of this title for a  
67 communications contact for the affected corporation. Such information regarding the communications contact shall not be  
68 deemed public. A certificate filed pursuant to this section must be on the form prescribed by the Secretary of State.

69 Section 4. Amend § 141, Title 8 of the Delaware Code by making deletions as shown by strike through and  
70 insertions as shown by underline as follows:

71 § 141 Board of directors; powers; number, qualifications, terms and quorum; committees; classes of directors;  
72 nonstock corporations; reliance upon books; action without meeting; removal.

73 (f) Unless otherwise restricted by the certificate of incorporation or bylaws, any action required or permitted to be  
74 taken at any meeting of the board of directors or of any committee thereof may be taken without a meeting if all members  
75 of the board or committee, as the case may be, consent thereto in writing, or by electronic transmission ~~and the writing or~~  
76 ~~writings or electronic transmission or transmissions are filed with the minutes of proceedings of the board, or committee.~~  
77 ~~Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes~~  
78 ~~are maintained in electronic form.~~ Any person (whether or not then a director) may provide, whether through instruction to  
79 an agent or otherwise, that a consent to action will be effective at a future time (including a time determined upon the  
80 happening of an event), no later than 60 days after such instruction is given or such provision is made and such consent  
81 shall be deemed to have been given for purposes of this subsection at such effective time so long as such person is then a

82 director and did not revoke the consent prior to such time. Any such consent shall be revocable prior to its becoming  
83 effective. After an action is taken, the consent or consents relating thereto shall be filed with the minutes of the proceedings  
84 of the board of directors, or the committee thereof, in the same paper or electronic form as the minutes are maintained.

85 Section 5. Amend § 160, Title 8 of the Delaware Code by making deletions as shown by strike through and  
86 insertions as shown by underline as follows:

87 § 160 Corporation's powers respecting ownership, voting, etc., of its own stock; rights of stock called for  
88 redemption.

89 (d) Shares which have been called for redemption shall not be deemed to be outstanding shares for the purpose of  
90 voting or determining the total number of shares entitled to vote on any matter on and after the date on which ~~written~~ notice  
91 of redemption has been sent to holders thereof and a sum sufficient to redeem such shares has been irrevocably deposited or  
92 set aside to pay the redemption price to the holders of the shares upon surrender of certificates therefor.

93 Section 6. Amend § 163, Title 8 of the Delaware Code by making deletions as shown by strike through and  
94 insertions as shown by underline as follows:

95 § 163 Payment for stock not paid in full.

96 The capital stock of a corporation shall be paid for in such amounts and at such times as the directors may require.  
97 The directors may, from time to time, demand payment, in respect of each share of stock not fully paid, of such sum of  
98 money as the necessities of the business may, in the judgment of the board of directors, require, not exceeding in the whole  
99 the balance remaining unpaid on said stock, and such sum so demanded shall be paid to the corporation at such times and  
100 by such installments as the directors shall direct. The directors shall give ~~written~~ notice of the time and place of such  
101 payments, which notice shall be ~~mailed~~ given at least 30 days before the time for such payment, to each holder of or  
102 subscriber for stock which is not fully paid at such holder's or subscriber's last known ~~post-office~~ address.

103 Section 7. Amend § 212, Title 8 of the Delaware Code by making deletions as shown by strike through and  
104 insertions as shown by underline as follows:

105 § 212 Voting rights of stockholders; proxies; limitations.

106 (c) Without limiting the manner in which a stockholder may authorize another person or persons to act for such  
107 stockholder as proxy pursuant to subsection (b) of this section, the following shall constitute a valid means by which a  
108 stockholder may grant such authority:

109 (1) A stockholder may execute a writing document authorizing another person or persons to act for such  
110 stockholder as proxy. Execution may be accomplished by the stockholder or such stockholder's authorized officer,

111 director, employee or agent ~~signing such writing or causing such person's signature to be affixed to such writing by~~  
112 ~~any reasonable means including, but not limited to, by facsimile signature.~~

113 (2) A stockholder may authorize another person or persons to act for such stockholder as proxy by  
114 transmitting or authorizing the transmission of ~~a telegram, cablegram, or other means of an~~ an electronic transmission to  
115 the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization or like  
116 agent duly authorized by the person who will be the holder of the proxy to receive such transmission, provided that any  
117 such ~~telegram, cablegram or other means of~~ transmission must either set forth or be submitted with information from  
118 which it can be determined that the ~~telegram, cablegram or other electronic~~ transmission was authorized by the  
119 stockholder. If it is determined that such ~~telegrams, cablegrams or other electronic~~ transmissions are valid, the  
120 inspectors or, if there are no inspectors, such other persons making that determination shall specify the information  
121 upon which they relied.

122 (d) Any copy, facsimile telecommunication or other reliable reproduction of the ~~writing or transmission document~~  
123 (including any electronic transmission) created pursuant to subsection (c) of this section may be substituted or used in lieu  
124 of the original ~~writing or transmission document~~ for any and all purposes for which the original ~~writing or transmission~~  
125 document could be used, provided that such copy, facsimile telecommunication or other reproduction shall be a complete  
126 reproduction of the entire original ~~writing or transmission document~~.

127 Section 8. Amend § 222, Title 8 of the Delaware Code by making deletions as shown by strike through and  
128 insertions as shown by underline as follows:

129 § 222 Notice of meetings and adjourned meetings.

130 (a) Whenever stockholders are required or permitted to take any action at a meeting, a ~~written~~ notice of the  
131 meeting in the form of a writing or electronic transmission shall be given which shall state the place, if any, date and hour  
132 of the meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to  
133 be present in person and vote at such meeting, the record date for determining the stockholders entitled to vote at the  
134 meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting, and, in  
135 the case of a special meeting, the purpose or purposes for which the meeting is called.

136 (b) Unless otherwise provided in this chapter, the ~~written~~ notice of any meeting shall be given not less than 10 nor  
137 more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting as of the record date  
138 for determining the stockholders entitled to notice of the meeting. ~~If mailed, notice is given when deposited in the United~~  
139 ~~States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the~~

140 corporation. ~~An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation~~  
141 ~~that the notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated therein.~~

142 Section 9. Amend § 228, Title 8 of the Delaware Code by making deletions as shown by strike through and  
143 insertions as shown by underline as follows:

144 § 228 Consent of stockholders or members in lieu of meeting [For application of section, see 81 Del. Laws, c. 86,  
145 § 40]

146 (d)(1) ~~A telegram, cablegram or other~~ An electronic transmission consenting to an action to be taken and  
147 transmitted by a stockholder, member or proxyholder, or by a person or persons authorized to act for a stockholder, member  
148 or proxyholder, shall be deemed to be written and signed for the purposes of this section, provided that any such ~~telegram,~~  
149 ~~cablegram or other~~ electronic transmission sets forth or is delivered with information from which the corporation can  
150 determine (A) that the ~~telegram, cablegram or other~~ electronic transmission was transmitted by the stockholder, member or  
151 proxyholder or by a person or persons authorized to act for the stockholder, member or proxyholder and (B) the date on  
152 which such stockholder, member or proxyholder or authorized person or persons transmitted such ~~telegram, cablegram or~~  
153 electronic transmission. ~~No consent given by telegram, cablegram or other electronic transmission shall be deemed to have~~  
154 ~~been delivered until such consent is reproduced in paper form and until such paper form shall be delivered to the~~  
155 ~~corporation by delivery to its registered office in this State, its principal place of business or an officer or agent of the~~  
156 ~~corporation having custody of the book in which proceedings of meetings of stockholders or members are recorded.~~  
157 ~~Delivery made to a corporation's registered office shall be made by hand or by certified or registered mail, return receipt~~  
158 ~~requested. Notwithstanding the foregoing limitations on delivery, consents given by telegram, cablegram or other~~  
159 ~~electronic transmission, may be otherwise delivered to the principal place of business of the corporation or to an officer or~~  
160 ~~agent of the corporation having custody of the book in which proceedings of meetings of stockholders or members are~~  
161 ~~recorded if, to the extent and in the manner provided by resolution of the board of directors or governing body of the~~  
162 ~~corporation. A consent given by electronic transmission is delivered to the corporation upon the earliest of: (i) when the~~  
163 consent enters an information processing system, if any, designated by the corporation for receiving consents, so long as the  
164 electronic transmission is in a form capable of being processed by that system and the corporation is able to retrieve that  
165 electronic transmission; (ii) when a paper reproduction of the consent is delivered to the corporation's principal place of  
166 business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of  
167 stockholders or members are recorded; (iii) when a paper reproduction of the consent is delivered to the corporation's  
168 registered office in this State by hand or by certified or registered mail, return receipt requested; or (iv) when delivered in  
169 such other manner, if any, provided by resolution of the board of directors or governing body of the corporation. Whether

170 the corporation has so designated an information processing system to receive consents is determined by the certificate of  
171 incorporation, the bylaws or from the context and surrounding circumstances, including the conduct of the corporation. A  
172 consent given by electronic transmission is delivered under this section even if no person is aware of its receipt. Receipt of  
173 an electronic acknowledgement from an information processing system establishes that a consent given by electronic  
174 transmission was received but, by itself, does not establish that the content sent corresponds to the content received.

175 (2) Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in  
176 lieu of the original writing for any and all purposes for which the original writing could be used, provided that such  
177 copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

178 Section 10. Amend § 230, Title 8 of the Delaware Code by making deletions as shown by strike through and  
179 insertions as shown by underline as follows:

180 § 230 Exception to requirements of notice.

181 (c) The exception in paragraph (b)(1) of this section to the requirement that notice be given shall not be  
182 applicable to any notice returned as undeliverable if the notice was given by electronic transmission. The exception in  
183 paragraph (b)(1) of this section to the requirement that notice be given shall not be applicable to any stockholder or member  
184 whose electronic mail address appears on the records of the corporation and to whom notice by electronic transmission is  
185 not prohibited by Section 232 of this title.

186 Section 11. Amend § 232, Title 8 of the Delaware Code by making deletions as shown by strike through and  
187 insertions as shown by underline as follows:

188 § 232 ~~Notice by electronic transmission.~~ Delivery of notice; notice by electronic transmission.

189 (a) Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to  
190 stockholders given by the corporation under any provision of this chapter, the certificate of incorporation, or the bylaws  
191 may be given in writing directed to the stockholder's mailing address (or by electronic transmission directed to the  
192 stockholder's electronic mail address, as applicable) as it appears on the records of the corporation and shall be given (1) if  
193 mailed, when the notice is deposited in the U.S. mail, postage prepaid, (2) if delivered by courier service, the earlier of  
194 when the notice is received or left at such stockholder's address or (3) if given by electronic mail, when directed to such  
195 stockholder's electronic mail address unless the stockholder has notified the corporation in writing or by electronic  
196 transmission of an objection to receiving notice by electronic mail or such notice is prohibited by subsection (e) of this  
197 section. A notice by electronic mail must include a prominent legend that the communication is an important notice  
198 regarding the corporation.

199           ~~(a)~~ (b) Without limiting the manner by which notice otherwise may be given effectively to stockholders, but  
200 subject to subsection (e) of this section, any notice to stockholders given by the corporation under any provision of this  
201 chapter, the certificate of incorporation, or the bylaws shall be effective if given by a form of electronic transmission  
202 consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the stockholder by  
203 written notice or electronic transmission to the corporation. ~~Any such consent shall be deemed revoked if (1) the~~  
204 ~~corporation is unable to deliver by electronic transmission 2 consecutive notices given by the corporation in accordance~~  
205 ~~with such consent and (2) such inability becomes known to the secretary or an assistant secretary of the corporation or to~~  
206 ~~the transfer agent, or other person responsible for the giving of notice; provided, however, the inadvertent failure to treat~~  
207 ~~such inability as a revocation shall not invalidate any meeting or other action.~~

208           ~~(b)~~ (c) Notice given pursuant to subsection ~~(a)~~ (b) of this section shall be deemed given:

209                   (1) If by facsimile telecommunication, when directed to a number at which the stockholder has consented to  
210 receive notice;

211                   ~~(2) If by electronic mail, when directed to an electronic mail address at which the stockholder has consented~~  
212 ~~to receive notice;~~

213                   ~~(3)~~ (2) If by a posting on an electronic network together with separate notice to the stockholder of such  
214 specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; and

215                   ~~(4)~~ (3) If by any other form of electronic transmission, when directed to the stockholder.

216           ~~An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that~~  
217 ~~the notice has been given by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the~~  
218 ~~facts stated therein.~~

219           ~~(e)~~ (d) For purposes of this chapter, (1) “electronic transmission” means any form of communication, not directly  
220 involving the physical transmission of paper, including the use of, or participation in, 1 or more electronic networks or  
221 databases (including 1 or more distributed electronic networks or databases), that creates a record that may be retained,  
222 retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through  
223 an automated process, (2) “electronic mail” means an electronic transmission directed to a unique electronic mail address  
224 (which electronic mail shall be deemed to include any files attached thereto and any information hyperlinked to a website if  
225 such electronic mail includes the contact information of an officer or agent of the corporation who is available to assist with  
226 accessing such files and information) and (3) “electronic mail address” means a destination, commonly expressed as a  
227 string of characters, consisting of a unique user name or mailbox (commonly referred to as the “local part” of the address)

228 and a reference to an internet domain (commonly referred to as the “domain part” of the address), whether or not displayed,  
229 to which electronic mail can be sent or delivered.

230 ~~(d) [Repealed.]~~

231 (e) Notwithstanding the foregoing, a notice may not be given by an electronic transmission from and after the  
232 time that (1) the corporation is unable to deliver by such electronic transmission 2 consecutive notices given by the  
233 corporation and (2) such inability becomes known to the secretary or an assistant secretary of the corporation or to the  
234 transfer agent, or other person responsible for the giving of notice, provided, however, the inadvertent failure to discover  
235 such inability shall not invalidate any meeting or other action.

236 (f) An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation  
237 that notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

238 ~~(e) (g) No provision of this section, except for subsections (a)(1), (d)(2) and (d)(3) of this section. This section~~  
239 ~~shall not apply to § 164, § 296, § 311, § 312, or § 324 of this title.~~

240 Section 12. Amend § 251, Title 8 of the Delaware Code by making deletions as shown by strike through and  
241 insertions as shown by underline as follows:

242 § 251 Merger or consolidation of domestic corporations [For application of this section, see 79 Del. Laws, c. 327,  
243 § 8 and 80 Del. Laws, c. 265, § 17]

244 (b) The board of directors of each corporation which desires to merge or consolidate shall adopt a resolution  
245 approving an agreement of merger or consolidation and declaring its advisability. The agreement shall state:

246 (1) The terms and conditions of the merger or consolidation;

247 (2) The mode of carrying the same into effect;

248 (3) In the case of a merger, such amendments or changes in the certificate of incorporation of the surviving  
249 corporation as are desired to be effected by the merger (which amendments or changes may amend and restate the  
250 certificate of incorporation of the surviving corporation in its entirety), or, if no such amendments or changes are  
251 desired, a statement that the certificate of incorporation of the surviving corporation shall be its certificate of  
252 incorporation;

253 (4) In the case of a consolidation, that the certificate of incorporation of the resulting corporation shall be as  
254 is set forth in an attachment to the agreement;

255 (5) The manner, if any, of converting the shares of each of the constituent corporations into shares or other  
256 securities of the corporation surviving or resulting from the merger or consolidation, or of cancelling some or all of  
257 such shares, and, if any shares of any of the constituent corporations are not to remain outstanding, to be converted

258 solely into shares or other securities of the surviving or resulting corporation or to be cancelled, the cash, property,  
259 rights or securities of any other corporation or entity which the holders of such shares are to receive in exchange for, or  
260 upon conversion of such shares and the surrender of any certificates evidencing them, which cash, property, rights or  
261 securities of any other corporation or entity may be in addition to or in lieu of shares or other securities of the surviving  
262 or resulting corporation; and

263 (6) Such other details or provisions as are deemed desirable, including, without limiting the generality of the  
264 foregoing, a provision for the payment of cash in lieu of the issuance or recognition of fractional shares, rights or other  
265 securities of the surviving or resulting corporation or of any other corporation or entity the shares, rights or other  
266 securities of which are to be received in the merger or consolidation, or for any other arrangement with respect thereto,  
267 consistent with § 155 of this title.

268 The agreement so adopted shall be executed by an authorized person, provided that if the agreement is filed, it  
269 shall be executed and acknowledged in accordance with § 103 of this title. Any of the terms of the agreement of merger or  
270 consolidation may be made dependent upon facts ascertainable outside of such agreement, provided that the manner in  
271 which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger  
272 or consolidation. The term “facts,” as used in the preceding sentence, includes, but is not limited to, the occurrence of any  
273 event, including a determination or action by any person or body, including the corporation.

274 (c) The agreement required by subsection (b) of this section shall be submitted to the stockholders of each  
275 constituent corporation at an annual or special meeting for the purpose of acting on the agreement. Due notice of the time,  
276 place and purpose of the meeting shall be ~~mailed~~ given to each holder of stock, whether voting or nonvoting, of the  
277 corporation at the stockholder’s address as it appears on the records of the corporation, at least 20 days prior to the date of  
278 the meeting. The notice shall contain a copy of the agreement or a brief summary thereof. At the meeting, the agreement  
279 shall be considered and a vote taken for its adoption or rejection. If a majority of the outstanding stock of the corporation  
280 entitled to vote thereon shall be voted for the adoption of the agreement, that fact shall be certified on the agreement by the  
281 secretary or assistant secretary of the corporation, provided that such certification on the agreement shall not be required if  
282 a certificate of merger or consolidation is filed in lieu of filing the agreement. If the agreement shall be so adopted and  
283 certified by each constituent corporation, it shall then be filed and shall become effective, in accordance with § 103 of this  
284 title. In lieu of filing the agreement of merger or consolidation required by this section, the surviving or resulting  
285 corporation may file a certificate of merger or consolidation, executed in accordance with § 103 of this title, which states:

286 (1) The name and state of incorporation of each of the constituent corporations;

- 287                   (2) That an agreement of merger or consolidation has been approved, adopted, executed and acknowledged by  
288 each of the constituent corporations in accordance with this section;
- 289                   (3) The name of the surviving or resulting corporation;
- 290                   (4) In the case of a merger, such amendments or changes in the certificate of incorporation of the surviving  
291 corporation as are desired to be effected by the merger (which amendments or changes may amend and restate the  
292 certificate of incorporation of the surviving corporation in its entirety), or, if no such amendments or changes are  
293 desired, a statement that the certificate of incorporation of the surviving corporation shall be its certificate of  
294 incorporation;
- 295                   (5) In the case of a consolidation, that the certificate of incorporation of the resulting corporation shall be as  
296 set forth in an attachment to the certificate;
- 297                   (6) That the executed agreement of consolidation or merger is on file at an office of the surviving or resulting  
298 corporation, stating the address thereof; and
- 299                   (7) That a copy of the agreement of consolidation or merger will be furnished by the surviving or resulting  
300 corporation, on request and without cost, to any stockholder of any constituent corporation.

301                   Section 13. Amend § 253, Title 8 of the Delaware Code by making deletions as shown by strike through and  
302 insertions as shown by underline as follows:

303                   § 253 Merger of parent corporation and subsidiary corporation or corporations.

304                   (a) In any case in which: (1) at least 90% of the outstanding shares of each class of the stock of a corporation or  
305 corporations (other than a corporation which has in its certificate of incorporation the provision required by § 251(g)(7)(i)  
306 of this title), of which class there are outstanding shares that, absent this subsection, would be entitled to vote on such  
307 merger, is owned by a corporation of this State or a foreign corporation, and (2) 1 or more of such corporations is a  
308 corporation of this State, unless the laws of the jurisdiction or jurisdictions under which the foreign corporation or  
309 corporations are organized prohibit such merger, the parent corporation may either merge the subsidiary corporation or  
310 corporations into itself and assume all of its or their obligations, or merge itself, or itself and 1 or more of such other  
311 subsidiary corporations, into 1 of the subsidiary corporations by executing, acknowledging and filing, in accordance with §  
312 103 of this title, a certificate of such ownership and merger setting forth a copy of the resolution of its board of directors to  
313 so merge and the date of the adoption; provided, however, that in case the parent corporation shall not own all the  
314 outstanding stock of all the subsidiary corporations, parties to a merger as aforesaid, the resolution of the board of directors  
315 of the parent corporation shall state the terms and conditions of the merger, including the securities, cash, property, or rights  
316 to be issued, paid, delivered or granted by the surviving corporation upon surrender of each share of the subsidiary

317 corporation or corporations not owned by the parent corporation, or the cancellation of some or all of such shares. Any of  
318 the terms of the resolution of the board of directors to so merge may be made dependent upon facts ascertainable outside of  
319 such resolution, provided that the manner in which such facts shall operate upon the terms of the resolution is clearly and  
320 expressly set forth in the resolution. The term "facts," as used in the preceding sentence, includes, but is not limited to, the  
321 occurrence of any event, including a determination or action by any person or body, including the corporation. If the parent  
322 corporation be not the surviving corporation, the resolution shall include provision for the pro rata issuance of stock of the  
323 surviving corporation to the holders of the stock of the parent corporation on surrender of any certificates therefor, and the  
324 certificate of ownership and merger shall state that the proposed merger has been approved by a majority of the outstanding  
325 stock of the parent corporation entitled to vote thereon at a meeting duly called and held after 20 days' notice of the purpose  
326 of the meeting ~~mailed~~ given to each such stockholder at the stockholder's address as it appears on the records of the  
327 corporation if the parent corporation is a corporation of this State or state that the proposed merger has been adopted,  
328 approved, certified, executed and acknowledged by the parent corporation in accordance with the laws under which it is  
329 organized if the parent corporation is a foreign corporation. If the surviving corporation is a foreign corporation:

330 (1) Section 252(d) of this title or § 258(c) of this title, as applicable, shall also apply to a merger under this  
331 section; and

332 (2) The terms and conditions of the merger shall obligate the surviving corporation to provide the agreement,  
333 and take the actions, required by § 252(d) of this title or § 258(c) of this title, as applicable.

334 Section 14. Amend § 255, Title 8 of the Delaware Code by making deletions as shown by strike through and  
335 insertions as shown by underline as follows:

336 § 255 Merger or consolidation of domestic nonstock corporations.

337 (b) Subject to subsection (d) of this section, the governing body of each corporation which desires to merge or  
338 consolidate shall adopt a resolution approving an agreement of merger or consolidation. The agreement shall state:

339 (1) The terms and conditions of the merger or consolidation;

340 (2) The mode of carrying the same into effect;

341 (3) In the case of a merger, such amendments or changes in the certificate of incorporation of the surviving  
342 corporation as are desired to be effected by the merger (which amendments or changes may amend and restate the  
343 certificate of incorporation of the surviving corporation in its entirety), or, if no such amendments or changes are  
344 desired, a statement that the certificate of incorporation of the surviving corporation shall be its certificate of  
345 incorporation;

346 (4) In the case of a consolidation, that the certificate of incorporation of the resulting corporation shall be as  
347 is set forth in an attachment to the agreement;

348 (5) The manner, if any, of converting the memberships or membership interests of each of the constituent  
349 corporations into memberships or membership interests of the corporation surviving or resulting from the merger or  
350 consolidation, or of cancelling some or all of such memberships or membership interests, and, if any memberships or  
351 membership interests of any of the constituent corporations are not to remain outstanding, to be converted solely into  
352 memberships or membership interests of the surviving or resulting corporation or to be cancelled, the cash, property,  
353 rights or securities of any other corporation or entity which the holders of such memberships or membership interests  
354 are to receive in exchange for, or upon conversion of, such memberships or membership interests, which cash,  
355 property, rights or securities of any other corporation or entity may be in addition to or in lieu of memberships or  
356 membership interests of the surviving or resulting corporation; and

357 (6) Such other details or provisions as are deemed desirable, including, without limiting the generality of the  
358 foregoing, a provision for the payment of cash in lieu of the issuance or recognition of fractional shares, rights or other  
359 securities of any other corporation or entity the shares, rights or other securities of which are to be received in the  
360 merger or consolidation, or for some other arrangement with respect thereto, consistent with § 155 of this title.

361 The agreement so adopted shall be executed by an authorized person, provided that if the agreement is filed, it  
362 shall be executed and acknowledged in accordance with § 103 of this title. Any of the terms of the agreement of merger or  
363 consolidation may be made dependent upon facts ascertainable outside of such agreement, provided that the manner in  
364 which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger  
365 or consolidation. The term “facts,” as used in the preceding sentence, includes, but is not limited to, the occurrence of any  
366 event, including a determination or action by any person or body, including the corporation.

367 (c) Subject to subsection (d) of this section, the agreement shall be submitted to the members of each constituent  
368 corporation, at an annual or special meeting thereof for the purpose of acting on the agreement. Due notice of the time,  
369 place and purpose of the meeting shall be ~~mailed~~ given to each member of each such corporation who has the right to vote  
370 for the election of the members of the governing body of the corporation and to each other member who is entitled to vote  
371 on the merger under the certificate of incorporation or the bylaws of such corporation, at the member’s address as it appears  
372 on the records of the corporation, at least 20 days prior to the date of the meeting. The notice shall contain a copy of the  
373 agreement or a brief summary thereof. At the meeting the agreement shall be considered and a vote, in person or by proxy,  
374 taken for the adoption or rejection of the agreement. If the agreement is adopted by a majority of the members of each such  
375 corporation entitled to vote for the election of the members of the governing body of the corporation and any other

376 members entitled to vote on the merger under the certificate of incorporation or the bylaws of such corporation, then that  
377 fact shall be certified on the agreement by the officer of each such corporation performing the duties ordinarily performed  
378 by the secretary or assistant secretary of a corporation, provided that such certification on the agreement shall not be  
379 required if a certificate of merger or consolidation is filed in lieu of filing the agreement. If the agreement shall be adopted  
380 and certified by each constituent corporation in accordance with this section, it shall be filed and shall become effective in  
381 accordance with § 103 of this title. The provisions set forth in the last sentence of § 251(c) of this title shall apply to a  
382 merger under this section, and the reference therein to “stockholder” shall be deemed to include “member” hereunder.

383 Section 15. Amend § 262, Title 8 of the Delaware Code by making deletions as shown by strike through and  
384 insertions as shown by underline as follows:

385 § 262 Appraisal rights [For application of this section, see 79 Del. Laws, c. 72, § 22; 79 Del. Laws, c. 122, § 12;  
386 80 Del. Laws, c. 265, § 18; and 81 Del. Laws, c. 354, § 17]

387 (d) Appraisal rights shall be perfected as follows:

388 (1) If a proposed merger or consolidation for which appraisal rights are provided under this section is to be  
389 submitted for approval at a meeting of stockholders, the corporation, not less than 20 days prior to the meeting, shall  
390 notify each of its stockholders who was such on the record date for notice of such meeting (or such members who  
391 received notice in accordance with § 255(c) of this title) with respect to shares for which appraisal rights are available  
392 pursuant to subsection (b) or (c) of this section that appraisal rights are available for any or all of the shares of the  
393 constituent corporations, and shall include in such notice a copy of this section and, if 1 of the constituent corporations  
394 is a nonstock corporation, a copy of § 114 of this title. Each stockholder electing to demand the appraisal of such  
395 stockholder’s shares shall deliver to the corporation, before the taking of the vote on the merger or consolidation, a  
396 written demand for appraisal of such stockholder’s shares; provided that a demand may be delivered to the corporation  
397 by electronic transmission if directed to an information processing system (if any) expressly designated for that  
398 purpose in such notice. Such demand will be sufficient if it reasonably informs the corporation of the identity of the  
399 stockholder and that the stockholder intends thereby to demand the appraisal of such stockholder’s shares. A proxy or  
400 vote against the merger or consolidation shall not constitute such a demand. A stockholder electing to take such action  
401 must do so by a separate written demand as herein provided. Within 10 days after the effective date of such merger or  
402 consolidation, the surviving or resulting corporation shall notify each stockholder of each constituent corporation who  
403 has complied with this subsection and has not voted in favor of or consented to the merger or consolidation of the date  
404 that the merger or consolidation has become effective; or

405 (2) If the merger or consolidation was approved pursuant to § 228, § 251(h), § 253, or § 267 of this title, then  
406 either a constituent corporation before the effective date of the merger or consolidation or the surviving or resulting  
407 corporation within 10 days thereafter shall notify each of the holders of any class or series of stock of such constituent  
408 corporation who are entitled to appraisal rights of the approval of the merger or consolidation and that appraisal rights  
409 are available for any or all shares of such class or series of stock of such constituent corporation, and shall include in  
410 such notice a copy of this section and, if 1 of the constituent corporations is a nonstock corporation, a copy of § 114 of  
411 this title. Such notice may, and, if given on or after the effective date of the merger or consolidation, shall, also notify  
412 such stockholders of the effective date of the merger or consolidation. Any stockholder entitled to appraisal rights may,  
413 within 20 days after the date of ~~mailing of~~ giving such notice or, in the case of a merger approved pursuant to § 251(h)  
414 of this title, within the later of the consummation of the offer contemplated by § 251(h) of this title and 20 days after  
415 the date of ~~mailing of~~ giving such notice, demand in writing from the surviving or resulting corporation the appraisal of  
416 such holder's shares; provided that a demand may be delivered to the corporation by electronic transmission if directed  
417 to an information processing system (if any) expressly designated for that purpose in such notice. Such demand will be  
418 sufficient if it reasonably informs the corporation of the identity of the stockholder and that the stockholder intends  
419 thereby to demand the appraisal of such holder's shares. If such notice did not notify stockholders of the effective date  
420 of the merger or consolidation, either (i) each such constituent corporation shall send a second notice before the  
421 effective date of the merger or consolidation notifying each of the holders of any class or series of stock of such  
422 constituent corporation that are entitled to appraisal rights of the effective date of the merger or consolidation or (ii) the  
423 surviving or resulting corporation shall send such a second notice to all such holders on or within 10 days after such  
424 effective date; provided, however, that if such second notice is sent more than 20 days following the sending of the first  
425 notice or, in the case of a merger approved pursuant to § 251(h) of this title, later than the later of the consummation of  
426 the offer contemplated by § 251(h) of this title and 20 days following the sending of the first notice, such second notice  
427 need only be sent to each stockholder who is entitled to appraisal rights and who has demanded appraisal of such  
428 holder's shares in accordance with this subsection. An affidavit of the secretary or assistant secretary or of the transfer  
429 agent of the corporation that is required to give either notice that such notice has been given shall, in the absence of  
430 fraud, be prima facie evidence of the facts stated therein. For purposes of determining the stockholders entitled to  
431 receive either notice, each constituent corporation may fix, in advance, a record date that shall be not more than 10  
432 days prior to the date the notice is given, provided, that if the notice is given on or after the effective date of the merger  
433 or consolidation, the record date shall be such effective date. If no record date is fixed and the notice is given prior to

434 the effective date, the record date shall be the close of business on the day next preceding the day on which the notice  
435 is given.

436 (e) Within 120 days after the effective date of the merger or consolidation, the surviving or resulting corporation  
437 or any stockholder who has complied with subsections (a) and (d) of this section hereof and who is otherwise entitled to  
438 appraisal rights, may commence an appraisal proceeding by filing a petition in the Court of Chancery demanding a  
439 determination of the value of the stock of all such stockholders. Notwithstanding the foregoing, at any time within 60 days  
440 after the effective date of the merger or consolidation, any stockholder who has not commenced an appraisal proceeding or  
441 joined that proceeding as a named party shall have the right to withdraw such stockholder's demand for appraisal and to  
442 accept the terms offered upon the merger or consolidation. Within 120 days after the effective date of the merger or  
443 consolidation, any stockholder who has complied with the requirements of subsections (a) and (d) of this section hereof,  
444 upon ~~written~~ request given in writing (or by electronic transmission directed to an information processing system (if any)  
445 expressly designated for that purpose in the notice of appraisal), shall be entitled to receive from the corporation surviving  
446 the merger or resulting from the consolidation a statement setting forth the aggregate number of shares not voted in favor of  
447 the merger or consolidation (or, in the case of a merger approved pursuant to § 251(h) of this title, the aggregate number of  
448 shares (other than any excluded stock (as defined in § 251(h)(6)d. of this title)) that were the subject of, and were not  
449 tendered into, and accepted for purchase or exchange in, the offer referred to in § 251(h)(2)), and, in either case, with  
450 respect to which demands for appraisal have been received and the aggregate number of holders of such shares. Such  
451 ~~written~~ statement shall be ~~mailed~~ given to the stockholder within 10 days after such stockholder's ~~written~~-request for such a  
452 statement is received by the surviving or resulting corporation or within 10 days after expiration of the period for delivery  
453 of demands for appraisal under subsection (d) of this section hereof, whichever is later. Notwithstanding subsection (a) of  
454 this section, a person who is the beneficial owner of shares of such stock held either in a voting trust or by a nominee on  
455 behalf of such person may, in such person's own name, file a petition or request from the corporation the statement  
456 described in this subsection.

457 Section 16. Amend § 266, Title 8 of the Delaware Code by making deletions as shown by strike through and  
458 insertions as shown by underline as follows:

459 § 266 Conversion of a domestic corporation to other entities.

460 (b) The board of directors of the corporation which desires to convert under this section shall adopt a resolution  
461 approving such conversion, specifying the type of entity into which the corporation shall be converted and recommending  
462 the approval of such conversion by the stockholders of the corporation. Such resolution shall be submitted to the  
463 stockholders of the corporation at an annual or special meeting. Due notice of the time, and purpose of the meeting shall be

464 ~~mailed~~ given to each holder of stock, whether voting or nonvoting, of the corporation at the address of the stockholder as it  
465 appears on the records of the corporation, at least 20 days prior to the date of the meeting. At the meeting, the resolution  
466 shall be considered and a vote taken for its adoption or rejection. If all outstanding shares of stock of the corporation,  
467 whether voting or nonvoting, shall be voted for the adoption of the resolution, the conversion shall be authorized.

468 (1)-(4) [Repealed.]

469 Section 17. Amend § 275, Title 8 of the Delaware Code by making deletions as shown by strike through and  
470 insertions as shown by underline as follows:

471 § 275 Dissolution generally; procedure.

472 (a) If it should be deemed advisable in the judgment of the board of directors of any corporation that it should be  
473 dissolved, the board, after the adoption of a resolution to that effect by a majority of the whole board at any meeting called  
474 for that purpose, shall cause notice of the adoption of the resolution and of a meeting of stockholders to take action upon  
475 the resolution to be ~~mailed~~ given to each stockholder entitled to vote thereon as of the record date for determining the  
476 stockholders entitled to notice of the meeting.

477 Section 18. Amend § 313, Title 8 of the Delaware Code by making deletions as shown by strike through and  
478 insertions as shown by underline as follows:

479 § 313 Revival of certificate of incorporation or charter of exempt corporations.

480 (a) Every exempt corporation whose certificate of incorporation or charter has become forfeited, pursuant to § 136  
481 (b) of this title for failure to obtain a registered agent, or inoperative and void, by operation of § 510 of this title for failure  
482 to file annual franchise tax reports required, and for failure to pay taxes or penalties from which it would have been exempt  
483 if the reports had been filed, shall be deemed to have filed all the reports and be relieved of all the taxes and penalties, upon  
484 satisfactory proof submitted to the Secretary of State of its right to be classified as an exempt corporation pursuant to §  
485 501(b) of this title, and upon filing with the Secretary of State a certificate of revival in manner and form as required by §  
486 312 of this title.

487 Section 19. Amend § 390, Title 8 of the Delaware Code by making deletions as shown by strike through and  
488 insertions as shown by underline as follows:

489 § 390 Transfer, domestication or continuance of domestic corporations.

490 (b) The board of directors of the corporation which desires to transfer to or domesticate or continue in a foreign  
491 jurisdiction shall adopt a resolution approving such transfer, domestication or continuance specifying the foreign  
492 jurisdiction to which the corporation shall be transferred or in which the corporation shall be domesticated or continued  
493 and, if applicable, that in connection with such transfer, domestication or continuance the corporation's existence as a

494 corporation of this State is to continue and recommending the approval of such transfer or domestication or continuance by  
495 the stockholders of the corporation. Such resolution shall be submitted to the stockholders of the corporation at an annual or  
496 special meeting. Due notice of the time, place and purpose of the meeting shall be ~~mailed~~ given to each holder of stock,  
497 whether voting or nonvoting, of the corporation at the address of the stockholder as it appears on the records of the  
498 corporation, at least 20 days prior to the date of the meeting. At the meeting, the resolution shall be considered and a vote  
499 taken for its adoption or rejection. If all outstanding shares of stock of the corporation, whether voting or nonvoting, shall  
500 be voted for the adoption of the resolution, the corporation shall file with the Secretary of State a certificate of transfer if its  
501 existence as a corporation of this State is to cease or a certificate of transfer and domestic continuance if its existence as a  
502 corporation of this State is to continue, executed in accordance with § 103 of this title, which certifies:

503 (1) The name of the corporation, and if it has been changed, the name under which it was originally  
504 incorporated.

505 (2) The date of filing of its original certificate of incorporation with the Secretary of State.

506 (3) The foreign jurisdiction to which the corporation shall be transferred or in which it shall be domesticated  
507 or continued and the name of the resulting entity.

508 (4) That the transfer, domestication or continuance of the corporation has been approved in accordance with  
509 the provisions of this section.

510 (5) In the case of a certificate of transfer, (i) that the existence of the corporation as a corporation of this State  
511 shall cease when the certificate of transfer becomes effective, and (ii) the agreement of the corporation that it may be  
512 served with process in this State in any proceeding for enforcement of any obligation of the corporation arising while it  
513 was a corporation of this State which shall also irrevocably appoint the Secretary of State as its agent to accept service  
514 of process in any such proceeding and specify the address (which may not be that of the corporation's registered agent  
515 without the written consent of the corporation's registered agent, such consent to be filed along with the certificate of  
516 transfer) to which a copy of such process shall be mailed by the Secretary of State. Process may be served upon the  
517 Secretary of State under this subsection by means of electronic transmission but only as prescribed by the Secretary of  
518 State. The Secretary of State is authorized to issue such rules and regulations with respect to such service as the  
519 Secretary of State deems necessary or appropriate. In the event of service upon the Secretary of State in accordance  
520 with this subsection, the Secretary of State shall forthwith notify such corporation that has transferred out of the State  
521 of Delaware by letter, directed to such corporation that has transferred out of the State of Delaware at the address so  
522 specified, unless such corporation shall have designated in writing to the Secretary of State a different address for such  
523 purpose, in which case it shall be mailed to the last address designated. Such letter shall be sent by a mail or courier

524 service that includes a record of mailing or deposit with the courier and a record of delivery evidenced by the signature  
525 of the recipient. Such letter shall enclose a copy of the process and any other papers served on the Secretary of State  
526 pursuant to this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any  
527 other papers in duplicate, to notify the Secretary of State that service is being effected pursuant to this subsection and  
528 to pay the Secretary of State the sum of \$50 for the use of the State, which sum shall be taxed as part of the costs in the  
529 proceeding, if the plaintiff shall prevail therein. The Secretary of State shall maintain an alphabetical record of any  
530 such service setting forth the name of the plaintiff and the defendant, the title, docket number and nature of the  
531 proceeding in which process has been served, the fact that service has been effected pursuant to this subsection, the  
532 return date thereof, and the day and hour service was made. The Secretary of State shall not be required to retain such  
533 information longer than 5 years from receipt of the service of process.

534 (6) In the case of a certificate of transfer and domestic continuance, that the corporation will continue to exist  
535 as a corporation of this State after the certificate of transfer and domestic continuance becomes effective.

536 Section 20. Amend § 391, Title 8 of the Delaware Code by making deletions as shown by strike through and  
537 insertions as shown by underline as follows:

538 § 391 Amounts payable to Secretary of State upon filing certificate or other paper.

539 (a) The following fees and penalties shall be collected by and paid to the Secretary of State, for the use of the  
540 State:

541 (1) Upon the receipt for filing of an original certificate of incorporation, the fee shall be computed on the  
542 basis of \$0.02 for each share of authorized capital stock having par value up to and including 20,000 shares, \$0.01 for  
543 each share in excess of 20,000 shares up to and including 200,000 shares, and 2/5 of a \$0.01 for each share in excess of  
544 200,000 shares; \$0.01 for each share of authorized capital stock without par value up to and including 20,000 shares,  
545 1/2 of \$0.01 for each share in excess of 20,000 shares up to and including 2,000,000 shares, and 2/5 of \$0.01 for each  
546 share in excess of 2,000,000 shares. In no case shall the amount paid be less than \$15. For the purpose of computing  
547 the fee on par value stock each \$100 unit of the authorized capital stock shall be counted as 1 assessable share.

548 (2) Upon the receipt for filing of a certificate of amendment of certificate of incorporation, or a certificate of  
549 amendment of certificate of incorporation before payment of capital, or a restated certificate of incorporation,  
550 increasing the authorized capital stock of a corporation, the fee shall be an amount equal to the difference between the  
551 fee computed at the foregoing rates upon the total authorized capital stock of the corporation including the proposed  
552 increase, and the fee computed at the foregoing rates upon the total authorized capital stock excluding the proposed  
553 increase. In no case shall the amount paid be less than \$30.

554 (3) Upon the receipt for filing of a certificate of amendment of certificate of incorporation before payment of  
555 capital and not involving an increase of authorized capital stock, or an amendment to the certificate of incorporation  
556 not involving an increase of authorized capital stock, or a restated certificate of incorporation not involving an increase  
557 of authorized capital stock, or a certificate of retirement of stock, the fee to be paid shall be \$30. For all other  
558 certificates relating to corporations, not otherwise provided for, the fee to be paid shall be \$5.00. In the case of exempt  
559 corporations no fee shall be paid under this paragraph.

560 (4) Upon the receipt for filing of a certificate of merger or consolidation of 2 or more corporations, the fee  
561 shall be an amount equal to the difference between the fee computed at the foregoing rates upon the total authorized  
562 capital stock of the corporation created by the merger or consolidation, and the fee so computed upon the aggregate  
563 amount of the total authorized capital stock of the constituent corporations. In no case shall the amount paid be less  
564 than \$75. The foregoing fee shall be in addition to any tax or fee required under any other law of this State to be paid  
565 by any constituent entity that is not a corporation in connection with the filing of the certificate of merger or  
566 consolidation.

567 (5) Upon the receipt for filing of a certificate of dissolution, there shall be paid to and collected by the  
568 Secretary of State a fee of:

569 a. Forty dollars; or

570 b. Ten dollars in the case of a certificate of dissolution which certifies that:

571 1. The corporation has no assets and has ceased transacting business; and

572 2. The corporation, for each year since its incorporation in this State, has been required to pay only  
573 the minimum franchise tax then prescribed by § 503 of this title; and

574 3. The corporation has paid all franchise taxes and fees due to or assessable by this State through the  
575 end of the year in which said certificate of dissolution is filed.

576 (6) Upon the receipt for filing of a certificate of reinstatement of a foreign corporation or a certificate of  
577 surrender and withdrawal from the State by a foreign corporation, there shall be collected by and paid to the Secretary  
578 of State a fee of \$10.

579 (7) For receiving and filing and/or indexing any certificate, affidavit, agreement or any other paper provided  
580 for by this chapter, for which no different fee is specifically prescribed, a fee of \$115 in each case shall be paid to the  
581 Secretary of State. The fee in the case of a certificate of incorporation filed as required by § 102 of this title shall be  
582 \$25. For entering information from each instrument into the Delaware Corporation Information System in accordance  
583 with § 103(c)(8) of this title, the fee shall be \$5.00.

584 a. A certificate of dissolution which meets the criteria stated in paragraph (a)(5)b. of this section shall not  
585 be subject to such fee; and

586 b. A certificate of incorporation filed in accordance with § 102 of this title shall be subject to a fee of  
587 \$25.

588 (8) For receiving and filing and/or indexing the annual report of a foreign corporation doing business in this  
589 State, a fee of \$125 shall be paid. In the event of neglect, refusal or failure on the part of any foreign corporation to file  
590 the annual report with the Secretary of State on or before June 30 each year, the corporation shall pay a penalty of  
591 \$125.

592 (9) For recording and indexing articles of association and other papers required by this chapter to be recorded  
593 by the Secretary of State, a fee computed on the basis of \$0.01 a line shall be paid.

594 (10) For certifying copies of any paper on file provided by this chapter, a fee of \$50 shall be paid for each  
595 copy certified. In addition, a fee of \$2.00 per page shall be paid in each instance where the Secretary of State provides  
596 the copies of the document to be certified.

597 (11) For issuing any certificate of the Secretary of State other than a certification of a copy under paragraph  
598 (a)(10) of this section, or a certificate that recites all of a corporation's filings with the Secretary of State, a fee of \$50  
599 shall be paid for each certificate. For issuing any certificate of the Secretary of State that recites all of a corporation's  
600 filings with the Secretary of State, a fee of \$175 shall be paid for each certificate. For issuing any certificate via the  
601 Division's online services, a fee of up to \$175 shall be paid for each certificate.

602 (12) For filing in the office of the Secretary of State any certificate of change of location or change of  
603 registered agent, as provided in § 133 of this title, there shall be collected by and paid to the Secretary of State a fee of  
604 \$50, provided that no fee shall be charged pursuant to § 103(c)(6) and (c)(7) of this title.

605 (13) For filing in the office of the Secretary of State any certificate of change of address or change of name of  
606 registered agent, as provided in § 134 of this title, there shall be collected by and paid to the Secretary of State a fee of  
607 \$50, plus the same fees for receiving, filing, indexing, copying and certifying the same as are charged in the case of  
608 filing a certificate of incorporation.

609 (14) For filing in the office of the Secretary of State any certificate of resignation of a registered agent and  
610 appointment of a successor, as provided in § 135 of this title, there shall be collected by and paid to the Secretary of  
611 State a fee of \$50.

612 (15) For filing in the office of the Secretary of State, any certificate of resignation of a registered agent  
613 without appointment of a successor, as provided in §§ 136 and 377 of this title, there shall be collected by and paid to  
614 the Secretary of State a fee of \$2.00 for each corporation whose registered agent has resigned by such certificate.

615 (16) For preparing and providing a written report of a record search, a fee of up to ~~\$50~~-100 shall be paid.

616 (17) For preclearance of any document for filing, a fee of \$250 shall be paid.

617 (18) For receiving and filing and/or indexing an annual franchise tax report of a corporation provided for by §  
618 502 of this title, a fee of \$25 shall be paid by exempt corporations and a fee of \$50 shall be paid by all other  
619 corporations.

620 (19) For receiving and filing and/or indexing by the Secretary of State of a certificate of domestication and  
621 certificate of incorporation prescribed in § 388(d) of this title, a fee of \$165, plus the fee payable upon the receipt for  
622 filing of an original certificate of incorporation, shall be paid.

623 (20) For receiving, reviewing and filing and/or indexing by the Secretary of State of the documents  
624 prescribed in § 389(c) of this title, a fee of \$10,000 shall be paid.

625 (21) For receiving, reviewing and filing and/or indexing by the Secretary of State of the documents  
626 prescribed in § 389(d) of this title, an annual fee of \$2,500 shall be paid.

627 (22) Except as provided in this section, the fees of the Secretary of State shall be as provided for in § 2315 of  
628 Title 29.

629 (23) In the case of exempt corporations, the total fees payable to the Secretary of State upon the filing of a  
630 Certificate of Change of Registered Agent and/or Registered Office or a Certificate of Revival shall be \$5.00 and such  
631 filings shall be exempt from any fees or assessments pursuant to the requirements of § 103(c)(6) and (c)(7) of this title.

632 (24) For accepting a corporate name reservation application, an application for renewal of a corporate name  
633 reservation, or a notice of transfer or cancellation of a corporate name reservation, there shall be collected by and paid  
634 to the Secretary of State a fee of up to \$75.

635 (25) For receiving and filing and/or indexing by the Secretary of State of a certificate of transfer or a  
636 certificate of continuance prescribed in § 390 of this title, a fee of \$1,000 shall be paid.

637 (26) For receiving and filing and/or indexing by the Secretary of State of a certificate of conversion and  
638 certificate of incorporation prescribed in § 265 of this title, a fee of \$115, plus the fee payable upon the receipt for  
639 filing of an original certificate of incorporation, shall be paid.

640 (27) For receiving and filing and/or indexing by the Secretary of State of a certificate of conversion  
641 prescribed in § 266 of this title, a fee of \$165 shall be paid.

642 (28) For receiving and filing and/or indexing by the Secretary of State of a certificate of validation prescribed  
643 in § 204 of this title, a fee of \$2,500 shall be paid; provided, that if the certificate of validation has the effect of  
644 increasing the authorized capital stock of a corporation, an additional fee, calculated in accordance with paragraph  
645 (a)(2) of this section, shall also be paid.

646 Section 21. Amend § 503, Title 8 of the Delaware Code by making deletions as shown by strike through and  
647 insertions as shown by underline as follows:

648 § 503 Rates and computation of franchise tax.

649 (h) All corporations as defined in this section which are regulated investment companies as defined by § 851 of  
650 the federal Internal Revenue Code [26 U.S.C. § 851], shall pay to the Secretary of State as an annual franchise tax, a tax  
651 computed either under paragraph (a)(1) or (a)(2) of this section, or a tax at the rate of ~~\$350~~ 400 per annum for each  
652 \$1,000,000, or fraction thereof in excess of \$1,000,000, of the average gross assets thereof during the taxable year,  
653 whichever be the least, provided that in no case shall the tax on any corporation for a full taxable year under this subsection  
654 be more than ~~\$90,000~~ 100,000. The average assets for the purposes of this section shall be taken to be the mean of the gross  
655 assets on January 1 and December 31 of the taxable year. Any corporation electing to pay a tax under this subsection shall  
656 show on its annual franchise tax report that the corporation is a regulated investment company as above defined, and the  
657 amount of its assets on January 1 and December 31 of the taxable year, and the mean thereof. The Secretary of State may  
658 investigate the facts set forth in the report and if it should be found that the corporation so electing to pay under this  
659 subsection shall not be a regulated investment company, as above defined, shall assess upon the corporation a tax under  
660 paragraphs (a)(1) and (a)(2) of this section, whichever be the lesser.

661 Section 22. Sections 1 through 14 and Sections 16 through 20 of this Act shall be effective on August 1, 2019.

662 Section 23. Section 15 of this Act shall be effective only with respect to a merger or consolidation consummated  
663 pursuant to an agreement entered into on or after August 1, 2019.

664 Section 24. Section 21 of this Act shall be effective for the tax year beginning on January 1, 2019.

#### SYNOPSIS

Section 1. Section 1 of this Act amends Section 108(b) to clarify that notice of an initial organization meeting may be given in writing or by electronic transmission. The amendments also eliminate the express requirement that a waiver of that notice be signed, to clarify that notice may be waived in any manner permitted by Section 229. Section 108(c) is being amended to clarify that a consent of incorporator may become effective in the future in the same manner that a consent of directors may become effective in the future under Section 141(f).

Section 2. Section 2 of this Act amends Title 8 to insert a new Section 116. New Section 116(a) establishes non-exclusive, safe harbor methods to reduce certain acts or transactions to a written or electronic document and to sign and deliver a document manually or electronically. The terminology in Section 116(a) is based on analogous provisions in Section 232, the Delaware Uniform Electronic Transactions Act (“UETA”) and the Model Business Corporation Act, with modifications. Section 116(a) permits corporate transactions (such as entering into agreements of merger not filed with the Secretary of State, voting agreements among stockholders and statutory voting trusts) to be documented, signed and delivered through “DocuSign” and similar electronic means.

The Section 116(a) safe harbor provisions apply solely for purposes of determining whether an act or transaction has been documented, and whether a document has been signed and delivered, in accordance with the DGCL and a corporation's certificate of incorporation and bylaws. Section 116(a) does not preempt any statute of frauds or other law that might require actions be documented, or that documents be signed and delivered, in a specified manner.

Section 116(a) clarifies how its provisions operate in connection with a transaction conducted pursuant to UETA. To the extent UETA does not apply to a transaction (under Section 12A-103 of UETA) because the transaction is governed by the DGCL, the parties to the transaction can satisfy the DGCL by complying with Section 116(a).

Section 116(b) addresses certain actions and documents that are not governed by Section 116(a). There is no presumption that these excluded items are prohibited from being effected by electronic or other means, but Section 116 may not be relied on as a basis for documenting an act or transaction, or signing or delivering a document, if the exclusions set forth in Section 116(b) apply. Many of these excluded items are governed by separate provisions that facilitate the use of electronic media, including documents filed with the Secretary of State (governed by Section 103(h)), documents comprising part of the stock ledger (governed by Section 119), notices (governed by Section 232, in the case of stockholder meetings), waivers of notice (governed by Section 229) and actions taken by directors, stockholders or incorporators (governed by Sections 141(f), 228(d) and 108(c), respectively).

Section 116(b) permits certificate of incorporation and bylaw provisions that restrict the use of Section 116(a), but those restrictions must be expressly stated. A provision merely specifying that an act or transaction will be documented in writing, or that a document will be signed or delivered manually, will not prohibit the application of Section 116(a).

Section 116(c) addresses the interaction between the provisions of the DGCL and the Electronic Signatures in Global and National Commerce Act (the "E-Sign Act"). Section 116(c) evidences an intent to allow the DGCL to govern the documentation of actions, and the signature and delivery of documents, to the fullest extent the DGCL is not preempted by the E-Sign Act.

Section 3. Section 3 of this Act amends Section 136(a) to permit a registered agent of a Delaware corporation, including a corporation which has become void pursuant to Section 510 of this title, to resign by filing a certificate of resignation. It further adds the requirement to include the last known information for a communications contact for the affected corporation, as last provided to the registered agent pursuant to Section 132(d) of Title 8. The communications contact information will not be deemed public, and falls within the exception set forth in Section 10002(l)(6) of Title 29 to the definition of "public record" for purposes of the Freedom of Information Act (29 Del. C. §§ 10001 et. seq.). This section clarifies that the Secretary of State shall provide the form to be used for certificates to be filed under Section 136(a).

Section 4. Section 4 of this Act amends Section 141(f) to clarify that action by unanimous consent of directors may be treated as taken before the consents relating to the action are filed in a minute book.

Section 5. Section 5 of this Act amends Section 160(d). As a result of the clarifying amendment to Section 160(d), a notice of redemption may be given in the form, and delivered in the manner, permitted by amended Section 232.

Section 6. Section 6 of this Act amends Section 163. As a result of the clarifying amendments to Section 163, a notice requiring payment on partly paid shares of capital stock may be given in the form, and delivered in the manner, permitted by amended Section 232.

Section 7. Section 7 of this Act amends Sections 212(c) and 212(d) to conform to Section 116, to use the term "document" consistently in each of those sections and to clarify that a proxy may be documented, executed and delivered in accordance with Section 116(a). The amendments to Sections 212(c) and 212(d) also eliminate references to proxies given by telegram and cablegram because those methods of granting proxies are included in the definition of electronic transmission.

Section 8. Section 8 of this Act amends Section 222(a) and Section 222(b) to delete the requirement that a corporation must give stockholders a notice of meeting in writing, in order to conform these provisions to amended Section 232, which allows a notice of meeting to be given in writing or by electronic mail. The amendments to Section 222(b) delete the provisions on how a notice of meeting is delivered to stockholders because delivery is addressed by amended Section 232.

Section 9. Section 9 of this Act amends Section 228(d) to expand the methods of delivery of consents given by electronic transmission. The amendments to Section 228(d) also eliminate redundant terms, including eliminating references to consents given by telegram or cablegram because those methods of giving consents are already included in the definition of an electronic transmission.

Section 10. Section 10 of this Act amends Section 230(c). Amended Section 230(c) provides that if a corporation has an electronic mail address for a stockholder or member, and notice by electronic mail is permitted by Section 232, then the corporation is not relieved of the obligation to send that stockholder or member notices pursuant to the returned mail exception to notice provided in Section 230(b).

Section 11. Section 11 of this Act amends Section 232. New Section 232(a) addresses the default means of giving notices to stockholders. As amended, notices may be given to stockholders by mail (in the same manner as permitted by the provisions formerly included in Section 222(b)), courier or electronic mail. Section 232(a) applies to any notice that is required to be given under chapter 1 of Title 8, or under the certificate of incorporation or bylaws. Accordingly, no provision of the certificate of incorporation or bylaws (including any provision requiring notice to be in writing or mailed)

may prohibit the corporation from giving notice in the form, or delivering notice in the manner, permitted by Section 232(a). The amendments enabling notice by electronic mail to stockholders apply solely for purposes of chapter 1 of Title 8, the certificate of incorporation and the bylaws, and do not affect, limit or eliminate or override the application of any other law, rule or regulation applicable to a corporation or by which such corporation or its securities may be bound (including any obligations of a corporation prescribed by Regulation 14A or Regulation 14C promulgated under the Securities Exchange Act of 1934).

Section 232(b) (formerly designated as Section 232(a)) is being amended to provide that a stockholder need not specifically consent to receiving notices by electronic mail because new Section 232(a) governs notice given by electronic mail.

Section 232(d) (formerly designated as Section 232(c)) includes new definitions for electronic mail and electronic mail address, which are based on similar terms defined in the Controlling the Assault of Non-Solicited Pornography and Marketing (CAN-SPAM) Act of 2003, (codified at 15 U.S.C. §§ 7701 et seq.). The CAN-SPAM Act established requirements for the distribution of commercial electronic mail messages.

Section 232(e) (which is similar to provisions that formerly appeared in Section 232(a)) prohibit notice from being given by electronic transmission after the corporation becomes aware that two consecutive notices were not successfully delivered by such transmission.

Section 232(f) includes provisions (similar to the provisions formerly in Section 222(b) and Section 232(b)) for transmittal affidavits that serve as prima facie evidence that notice has been given to stockholders.

Section 232(g) (formerly designated as Section 232(e)) identifies certain types of notices that must continue to be given in the manner specified by those provisions addressed in Section 232(g).

Section 12. Sections 12 through 14 and Sections 16, 17 and 19 of this Act amend Sections 251, 253, 255, 266, 275 and 390, respectively. Sections 251(b) and 255(b) are being amended to permit any authorized person to execute an agreement of merger or consolidation, except that any agreement filed with the Secretary of State must be executed by a person, and in the manner, authorized by Section 103.

As a result of clarifying amendments to Sections 251(c), 253(a), 255(c), 266(b), 275(a) and 390(b), the notices of stockholder meeting contemplated by those sections may be given in the form, and delivered in the manner, permitted by amended Section 232.

Section 13. Section 15 of this Act amends Section 262. Section 262(d) is being amended to clarify its notice provisions and conform those provisions to amended Section 232(a). As a result of these clarifying amendments, a corporation may deliver a notice of appraisal rights by courier or electronic mail, instead of delivering the notice by mail. Section 262(d) is also being amended to permit the delivery of demands for appraisal by electronic transmission, but only if the corporation expressly designates, in the notice of appraisal rights given by the corporation, an information processing system for receipt of electronic delivery of demands. Among other things, this amendment permits a corporation to designate an electronic mail address for purposes of receiving a stockholder demand for appraisal.

Section 262(e) is being amended to clarify that a request for a statement of the number of shares and holders entitled to appraisal may be given by electronic transmission. Amended Section 262(e) also clarifies that such statement need not be mailed and instead may be given by the corporation in any manner permitted by amended Section 232(a).

The amendments to Section 262 shall be effective with respect to agreements of merger or consolidation consummated pursuant to an agreement entered into on or after August 1, 2019.

Section 14. Section 18 of this Act amends Section 313(a) to provide that Section 313 applies to an exempt corporation whose certificate of incorporation or charter has become forfeited pursuant to Section 136(b) for failure to obtain a registered agent.

Section 15. Section 20 of this Act amends Section 391(a)(11) to provide for the fee payable to the Delaware Secretary of State for any certificate issued via the Secretary of State's online services, and Section 391(a)(16) to increase the fee payable to the Delaware Secretary of State for a written report of a record search.

Section 16. Section 21 of this Act amends Section 503(h) to reflect fee increases to the alternative minimum amount of annual franchise tax payable by a regulated investment company for each \$1,000,000, or fraction thereof in excess of \$1,000,000, of the company's average gross assets during the taxable year, and increases the maximum annual franchise tax payable by a regulated investment company.

Section 17. Sections 22 through 24 of this Act relate to the effectiveness of the amendments to Title 8. Section 22 of this Act provides that Sections 1 through 14 and Sections 16 through 20 of this Act are effective on August 1, 2019. Section 23 of this Act provides that Section 15 of this Act (relating to the amendments to Section 262) are effective only with respect to a merger or consolidation consummated pursuant to an agreement entered into on or after August 1, 2019. Section 24 of this Act provides that Section 21 of this Act (relating to the amendments to Section 503(h)) are effective for the tax year beginning on January 1, 2019.

Author: Senator Brown