

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2234 Session of 2014

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AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 16, 2014

AN ACT

1 Amending Titles 15 (Corporations and Unincorporated
2 Associations) and 54 (Names) of the Pennsylvania Consolidated
3 Statutes, modernizing the law on corporations and
4 unincorporated associations by doing the following:
5 Adding provisions applicable to associations generally on
6 names, mergers, interest exchanges, conversions, divisions,
7 domestications and registration of foreign associations to do
8 business.
9 Extensively revising preliminary provisions on general
10 provisions, entities generally, entity transactions and
11 foreign associations.
12 As to business corporations, extensively revising:
13 preliminary provisions on definitions, equitable
14 relief and applicability;
15 general incorporation provisions on names, articles
16 of incorporation, applicability and notice to demand
17 payment;
18 management and ownership provisions on shareholder
19 action;
20 fundamental change provisions on omissions,
21 termination, de facto transaction, proposals, special

1 treatment of shares, submission of matters to
2 shareholders, liabilities, merger, share exchange, sale
3 of assets, division, conversion, voluntary dissolution
4 and winding up;
5 nonstock corporation provisions on application;
6 statutory close corporation provisions on
7 application;
8 registered corporation provisions on call of special
9 meetings of shareholders, shareholder transactions and
10 management adoption of merger plans;
11 management corporation provisions on application and
12 bylaw and fundamental change procedures;
13 professional corporation provisions on application
14 and corporate name;
15 insurance corporation provisions on application;
16 benefit corporation provisions on applicability and
17 election of status; and
18 foreign business corporation provisions on admission,
19 excluded activities, names, commencing business,
20 certificates of authority, termination, address change
21 after withdrawal, name registration, penalties, powers
22 and duties, registered offices and domestication.
23 As to nonprofit corporations, extensively revising:
24 general provisions on definitions and applicability;
25 incorporation provisions on corporate name, changes
26 and reservation;
27 management and ownership provisions on action;
28 fundamental change provisions on filed plans,
29 statement of termination, proposal of fundamental
30 transactions, authorization, plans, notice, procedure,
31 foreign corporations, articles, filing, effectiveness,
32 resulting effect, merger, voluntary transfer of assets,
33 division and conversion; and
34 foreign nonprofit corporate provisions on admission,
35 excluded activities, names, commencing business,
36 certificates of authority, organic change, termination,
37 address change after withdrawal, name registration,
38 penalties, powers and duties, registered offices and
39 domestication.
40 As to cooperative corporations, extensively revising
41 workers cooperative corporation provisions on definitions,
42 nature and articles and terminating provisions on generation
43 choices for customers of electric cooperatives.
44 As to partnerships and limited liability companies,
45 extensively revising:
46 registered limited liability partnership provisions
47 on name and foreign partnerships;
48 limited partnership provisions on definitions, name,
49 cancellation of certificate, merger and consolidation,
50 nonjudicial dissolution, division and foreign limited
51 partnerships; and

1 limited liability company provisions on definitions,
2 name, election, merger and consolidation, division and
3 foreign companies.

4 As to unincorporated associations, extensively revising:
5 preliminary provisions on definitions; and
6 professional associations provisions on
7 applicability.

8 As to business trusts, extensively revising provisions on
9 creation, status and termination, on documentation and on
10 foreign business trusts.

11 In names:

12 as to fictitious names, further providing for scope
13 and registration; and

14 as to corporate and associational names, further
15 providing for a register and for decennial filings.

16 Making editorial changes.

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

19 Section 1. This act shall be known and may be cited as the
20 Association Transactions Act.

21 Section 1.1. The General Assembly finds and declares as
22 follows:

23 (1) It is necessary to modernize the law of this
24 Commonwealth on the organization and governance of
25 corporations and other associations in order to make the
26 Commonwealth competitive with other states in attracting
27 business organizations.

28 (2) This act is designed to amend 15 Pa.C.S. Pt. I to
29 integrate the law on corporations and other associations by
30 enacting provisions applicable to all forms of associations
31 and authorizing transactions involving any form of
32 association.

33 (3) It is also necessary to modernize the law on those
34 subjects in order to improve the functioning of the Bureau of
35 Corporations and Charitable Organizations, which administers
36 that law.

1 (4) This act is designed to amend 15 Pa.C.S. Pt. I to
2 integrate the law on entity names, entity transactions and
3 registration of foreign entities into a single coherent body
4 of law that can be efficiently administered by the Bureau of
5 Corporations and Charitable Organizations and easily used and
6 understood by the citizens of the Commonwealth.

7 Section 1.2. The introductory paragraph, the definitions of
8 "association," "cooperative corporation," "corporation for
9 profit," and "corporation not-for-profit," paragraph (2) of the
10 definition of "court" and the definitions of "domestic savings
11 association" and "savings association" in section 102 of Title
12 15 of the Pennsylvania Consolidated Statutes are amended and the
13 section is amended by adding definitions and a subsection to
14 read:

15 § 102. Definitions.

16 (a) Defined terms.--Subject to additional or inconsistent
17 definitions contained in subsequent provisions of this title
18 that are applicable to specific provisions of this title, the
19 following words and phrases when used in this title shall have,
20 unless the context clearly indicates otherwise, the meanings
21 given to them in this section:

22 * * *

23 "Association." A corporation for profit or not-for-profit, a
24 partnership, a limited liability company, a business or
25 statutory trust, an entity or two or more persons associated in
26 a common enterprise or undertaking. The term does not include:

27 (1) a testamentary trust or an inter vivos trust as
28 defined in 20 Pa.C.S. § 711(3) (relating to mandatory
29 exercise of jurisdiction through orphans' court division in
30 general) [.];

1 (2) an association or relationship that:
2 (i) is not a person that has:
3 (A) a legal existence separate from any interest
4 holder of the person; or
5 (B) the power to acquire an interest in real
6 property in its own name; and
7 (ii) is not a partnership under the rules stated in
8 section 8312 (relating to rules for determining the
9 existence of a partnership) or a similar provision of the
10 law of another jurisdiction;
11 (3) a decedent's estate; or
12 (4) a government or a governmental subdivision, agency
13 or instrumentality.

14 * * *

15 "Business corporation." A domestic or foreign business
16 corporation as defined in section 1103 (relating to
17 definitions), whether or not it is a cooperative corporation.

18 * * *

19 "Cooperative corporation." A domestic corporation that is
20 subject to Subpart D of Part II (relating to cooperative
21 corporations), or a foreign corporation that is subject to a
22 similar law of a foreign jurisdiction.

23 "Corporation for profit." A domestic or foreign corporation
24 incorporated for a purpose or purposes involving pecuniary
25 profit, incidental or otherwise, to its shareholders or members,
26 whether or not it is a cooperative corporation.

27 "Corporation not-for-profit." A domestic or foreign
28 corporation not incorporated for a purpose or purposes involving
29 pecuniary profit, incidental or otherwise, whether or not it is
30 a cooperative corporation.

1 "Court." Subject to any inconsistent general rule prescribed
2 by the Supreme Court of Pennsylvania:

3 * * *

4 (2) where an association results from a merger,
5 [consolidation,] division or other transaction without
6 establishing a registered office in this Commonwealth or
7 withdraws as a foreign corporation or association, the court
8 of common pleas in which venue would have been laid
9 immediately prior to the transaction or withdrawal.

10 * * *

11 "Dissenters rights." The rights and remedies provided by
12 Subchapter D of Chapter 15 (relating to dissenters rights).

13 "Distributional interest." The right under the organic law
14 of an entity that is not a corporation for profit or not-for-
15 profit, or under the organic rules of such an entity, to receive
16 distributions from the entity.

17 "Domestic association." An association, the internal affairs
18 of which are governed by the law of this Commonwealth.

19 * * *

20 "Domestic entity." An entity, the internal affairs of which
21 are governed by the law of this Commonwealth.

22 "Domestic filing association." A domestic association, the
23 formation of which requires the filing of a public organic
24 record. The term does not include a general partnership that is
25 also:

26 (1) a limited liability partnership; or

27 (2) an electing partnership.

28 "Domestic filing entity." A domestic entity, the formation
29 of which requires the filing of a public organic record. The
30 term does not include a general partnership that is also:

1 (1) a limited liability partnership; or

2 (2) an electing partnership.

3 * * *

4 ["Domestic savings association." A domestic corporation for
5 profit which is an association as defined in section 102(3) of
6 the former act of December 14, 1967 (P.L.746, No.345), known as
7 the Savings Association Code of 1967.]

8 * * *

9 "Electronic." Relating to technology having electrical,
10 digital, magnetic, wireless, optical, electromagnetic or similar
11 capabilities.

12 "Entity." A domestic or foreign:

13 (1) business corporation;

14 (2) nonprofit corporation;

15 (3) general partnership;

16 (4) limited partnership;

17 (5) limited liability company;

18 (6) unincorporated nonprofit association;

19 (7) professional association; or

20 (8) business trust, common law business trust or
21 statutory trust.

22 * * *

23 "Filing association." A domestic or foreign association, the
24 formation of which requires the filing of a public organic
25 record. The term does not include a general partnership that is
26 also:

27 (1) a limited liability partnership; or

28 (2) an electing partnership.

29 "Filing entity." A domestic or foreign entity, the formation
30 of which requires the filing of a public organic record. The

1 term does not include a general partnership that is also:

2 (1) a limited liability partnership; or

3 (2) an electing partnership.

4 "Foreign association." An association that is not a domestic
5 association.

6 * * *

7 "Foreign entity." An entity that is not a domestic entity.

8 "Foreign filing association." A foreign association, the
9 formation of which requires the filing of a public organic
10 record.

11 "Fraternal benefit society." A fraternal benefit society as
12 defined in section 2403 of the act of May 17, 1921 (P.L.682,
13 No.284), known as The Insurance Company Law of 1921.

14 "General partnership." A domestic or foreign partnership as
15 defined in section 8311 (relating to partnership defined),
16 whether or not it is a limited liability partnership or electing
17 partnership.

18 "Governance interest." A right under the organic law or
19 organic rules of an association that is not a corporation for
20 profit or not-for-profit, other than as a governor, agent,
21 assignee or proxy, to:

22 (1) receive or demand access to information concerning,
23 or the books and records of, the association;

24 (2) vote for the election of the governors of the
25 association; or

26 (3) receive notice of or vote on an issue involving the
27 internal affairs of the association.

28 "Governor." A person by or under whose authority the powers
29 of an association are exercised and under whose direction the
30 activities and affairs of the association are managed pursuant

1 to the organic law and organic rules of the association. The
2 term includes:

3 (1) A director of a corporation for profit or a
4 shareholder of a statutory close corporation that is deemed
5 to be a director under section 2332(a) (relating to
6 management by shareholders).

7 (2) A director or member of an other body of a
8 corporation not-for-profit.

9 (3) A partner of a general partnership.

10 (4) A general partner of a limited partnership.

11 (5) A general partner of an electing partnership.

12 (6) A manager of a manager-managed limited liability
13 company or a member that has the right to participate
14 materially in the management of a member-managed limited
15 liability company.

16 (7) A manager of an unincorporated nonprofit
17 association.

18 (8) A member of the board of governors of a professional
19 association.

20 (9) A trustee of a business trust, common law business
21 trust or statutory trust.

22 "Health maintenance organization." An entity that is subject
23 to the act of December 29, 1972 (P.L.1701, No.364), known as the
24 Health Maintenance Organization Act.

25 "Hospital plan corporation." A hospital plan corporation as
26 defined in 40 Pa.C.S. § 6101 (relating to definitions).

27 * * *

28 "Interest." A share in a corporation for profit, a
29 membership or share in a corporation not-for-profit, a
30 governance interest or a distributional interest. The term

1 includes the following:

2 (1) A governance interest or transferable interest in a
3 general partnership.

4 (2) A governance interest or transferable interest in a
5 limited partnership.

6 (3) A governance interest or transferable interest in a
7 limited liability company.

8 (4) A membership in an unincorporated nonprofit
9 association.

10 (5) An ownership interest in a professional association.

11 (6) A beneficial interest in a business trust, common-
12 law business trust or statutory trust.

13 "Interest holder." A direct or record holder of an interest.

14 The term includes the following:

15 (1) A shareholder of a corporation for profit.

16 (2) A member or shareholder of a corporation not-for-
17 profit.

18 (3) A partner or transferee in a general partnership.

19 (4) A general or limited partner or transferee in a
20 limited partnership.

21 (5) A member or transferee in a limited liability
22 company.

23 (6) A member of an unincorporated nonprofit association.

24 (7) An associate in a professional association.

25 (8) A beneficiary or beneficial owner of record of a
26 business trust, common-law business trust or statutory trust.

27 * * *

28 "Jurisdiction." When used to refer to a political entity,
29 the United States, a state, a foreign country or a political
30 subdivision of a foreign country.

1 "Jurisdiction of formation." The jurisdiction whose law
2 includes the organic law of an association.

3 * * *

4 "Limited liability limited partnership." A domestic or
5 foreign limited partnership for which there is in effect:

6 (1) a statement of registration under Chapter 82
7 (relating to registered limited liability partnerships);

8 (2) a provision of its certificate of limited
9 partnership electing to be subject to Chapter 82; or

10 (3) a similar filing or provision under the organic law
11 of a foreign partnership.

12 "Limited liability partnership." A domestic or foreign
13 general partnership for which there is in effect:

14 (1) a statement of registration under Chapter 82
15 (relating to registered limited liability partnerships); or

16 (2) a similar filing under the organic law of a foreign
17 general partnership.

18 "Limited partnership." A domestic or foreign limited
19 partnership as defined in section 8503 (relating to definitions
20 and index of definitions), whether or not it is a limited
21 liability limited partnership or electing partnership.

22 "Nonfiling association." An association that is not a filing
23 association.

24 "Nonprofit corporation." A domestic or foreign nonprofit
25 corporation as defined in section 5103 (relating to
26 definitions), whether or not it is a cooperative corporation.

27 "Nonregistered foreign association." A foreign association
28 that is not registered to do business in this Commonwealth
29 pursuant to a filing with the department.

30 * * *

1 "Organic law." The law of the jurisdiction of formation of
2 an association governing its internal affairs.

3 "Organic rules." The public organic record and private
4 organic rules of an association.

5 "Principal office." The principal executive office of an
6 association, whether or not the office is located in this
7 Commonwealth.

8 "Private organic rules." The rules that govern the internal
9 affairs of an association, are binding on all its interest
10 holders and are not part of its public organic record, if any.
11 The term includes the following:

12 (1) The bylaws of a corporation for profit.

13 (2) The bylaws of a corporation not-for-profit.

14 (3) The partnership agreement of a general partnership.

15 (4) The partnership agreement of a limited partnership.

16 (5) The operating agreement of a limited liability
17 company.

18 (6) The governing principles of an unincorporated
19 nonprofit association.

20 (7) The bylaws of a professional association.

21 (8) The bylaws or similar rules, by whatever name they
22 may be referred to, of a business trust, common-law business
23 trust or statutory trust.

24 * * *

25 "Professional association." An association as defined in
26 section 9302 (relating to application of chapter).

27 "Professional health service corporation." A professional
28 health service corporation as defined in 40 Pa.C.S. § 6302
29 (relating to definitions).

30 * * *

1 "Property." All property, whether real, personal or mixed,
2 or tangible or intangible, or any right or interest therein,
3 including rights under contracts and other binding agreements.

4 "Public organic record." The document the public filing of
5 which by the department or a similar agency in another
6 jurisdiction is required to form an association. The term
7 includes any amendment or restatement of the document and
8 includes the following:

9 (1) The articles of incorporation of a corporation for
10 profit.

11 (2) The articles of incorporation of a corporation not-
12 for-profit.

13 (3) The certificate of limited partnership of a limited
14 partnership.

15 (4) The certificate of organization of a limited
16 liability company.

17 (5) The articles of association of a professional
18 association.

19 (6) The declaration of trust or other instrument of a
20 business trust or statutory trust which has been filed by the
21 department or a similar agency in another jurisdiction.

22 "Receipt." Actual coming into possession.

23 "Receive." To actually come into possession.

24 * * *

25 "Registered corporation." A corporation defined in section
26 2502 (relating to registered corporation status).

27 "Registered foreign association." A foreign association that
28 is registered to do business in this Commonwealth pursuant to a
29 filing in the department.

30 * * *

1 ["Savings association." An association as defined in section
2 102(3) of the former act of December 14, 1967 (P.L.746, No.345),
3 known as the Savings Association Code of 1967.]

4 * * *

5 "Transfer." Includes:

6 (1) an assignment;

7 (2) a conveyance;

8 (3) a sale;

9 (4) a lease;

10 (5) an encumbrance, including a mortgage or security
11 interest;

12 (6) a gift; and

13 (7) a transfer by operation of law.

14 "Type." When used with respect to an association, a generic
15 form:

16 (1) recognized at common law; or

17 (2) organized under an organic law, whether or not some
18 associations organized under that organic law are subject to
19 provisions of that law which create different categories of
20 the form of association.

21 "Unincorporated nonprofit association." A nonprofit
22 association as defined in section 9112 (relating to
23 definitions).

24 * * *

25 (b) Application of definitions.--The words and phrases
26 defined in subsection (a) shall have the same meanings when used
27 in 54 Pa.C.S. (relating to names) except to the extent those
28 meanings are inconsistent with the provisions of that title.

29 Section 1.3. Section 109(b) of Title 15 is amended to read:

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

1 registered address.

2 * * *

3 (b) Statement of address of commercial registered office.--A
4 domestic [business corporation or qualified foreign business
5 corporation, partnership or other] or registered foreign
6 association engaged in the business of maintaining registered
7 offices in this Commonwealth for corporations or other
8 associations may file in the department a statement of address
9 of commercial registered office executed by the representing
10 association or a division thereof and setting forth:

11 (1) The name of the representing association.

12 (2) The form of organization of the representing
13 association.

14 (3) A statement that it is in the business of
15 maintaining registered offices in this Commonwealth for
16 corporations or other associations.

17 (4) The address, including street and number, if any, of
18 a place of business of the representing association in this
19 Commonwealth to which communications and other matters
20 directed to each person represented by it may be delivered.

21 * * *

22 Section 2. Title 15 is amended by adding sections to read:

23 § 112. Receipt of electronic communications.

24 (a) Requirements.--Unless otherwise provided in the organic
25 rules of an entity or otherwise agreed between the sender and
26 the recipient, an electronic communication is received when it:

27 (1) enters an information processing system that the
28 recipient has designated or uses for the purpose of receiving
29 electronic records or information of the type sent and from
30 which the recipient is able to retrieve the electronic

1 record; and

2 (2) is in a form capable of being processed by that
3 system.

4 (b) Awareness not required.--An electronic communication is
5 received under subsection (a) even if no individual is aware of
6 its receipt.

7 (c) Presumption.--Receipt of an electronic acknowledgment
8 from an information processing system described in subsection
9 (a) establishes that a communication was received but, by
10 itself, does not establish that the content sent corresponds to
11 the content received.

12 § 113. Delivery of document.

13 (a) Permissible means.--Permissible means of delivery of a
14 document in record form include:

15 (1) personal delivery;

16 (2) mail;

17 (3) conventional commercial practice; and

18 (4) electronic transmission.

19 (b) Delivery to department.--Delivery to the department of a
20 document in record form is effective only on receipt by the
21 department.

22 (c) Delivery by department.--Except as provided by law other
23 than this title, the department may deliver a document in record
24 form to a person by delivering it:

25 (1) in person to the person that submitted it for
26 filing;

27 (2) to the address of the person's registered office;

28 (3) to the principal office address of the person; or

29 (4) to another address the person provides to the
30 department for delivery.

1 Section 2.1. Section 133(a) (3) of Title 15 is amended by
2 adding a subparagraph to read:

3 § 133. Powers of Department of State.

4 (a) General rule.--The department has the power and
5 authority reasonably necessary to enable it to administer this
6 subchapter efficiently and to perform the functions specified in
7 section 132 (relating to functions of Department of State), in
8 13 Pa.C.S. (relating to commercial code) and in 17 Pa.C.S.
9 (relating to credit unions). The following shall not be agency
10 regulations for the purposes of section 612 of the act of April
11 9, 1929 (P.L.177, No.175), known as The Administrative Code of
12 1929, the act of October 15, 1980 (P.L.950, No.164), known as
13 the Commonwealth Attorneys Act, the act of June 25, 1982
14 (P.L.633, No.181), known as the Regulatory Review Act, or any
15 similar provision of law, but shall be subject to the
16 opportunity of public comment requirement under section 201 of
17 the act of July 31, 1968 (P.L.769, No.240), referred to as the
18 Commonwealth Documents Law:

19 * * *

20 (3) Regulations, which the department is hereby
21 authorized to promulgate, that:

22 * * *

23 (vi) Specify the symbols or characters which:

24 (A) do not make a name distinguishable on the
25 records of the department; or

26 (B) may be used in the name of an entity.

27 * * *

28 Section 2.2. Section 135(e) (1) of Title 15 is amended to
29 read:

30 § 135. Requirements to be met by filed documents.

1 * * *

2 (e) Distinguishable names.--A name shall not be considered
3 distinguishable upon the records of the department from another
4 name for purposes of this title and 54 Pa.C.S. (relating to
5 names) solely because the names differ from each other in any or
6 all of the following respects:

7 (1) Use of punctuation marks and of symbols or
8 characters specified by regulation of the department under
9 section 133(a)(3)(vi) (relating to powers of department of
10 State).

11 * * *

12 Section 3. Section 136(c) of Title 15 is amended and the
13 section is amended by adding a subsection to read:

14 § 136. Processing of documents by Department of State.

15 * * *

16 (c) Effective date and time.--Except as otherwise provided
17 in this title and subject to sections 138 (relating to statement
18 of correction) and 141 (relating to ~~withdrawal~~ ABANDONMENT of <--
19 filing before effectiveness), a document [shall become] filed by
20 the department under a provision of this title is effective
21 [upon the filing thereof in the department.]:

22 (1) on the date and at the time of its delivery to the
23 department;

24 (2) on the date of delivery and at the time specified in
25 the document as its effective time, if the time specified is
26 later than the time under paragraph (1); or

27 (3) at a specified delayed effective date and:

28 (i) at a specified time; or

29 (ii) if no time is specified, at 12:01 a.m. on the
30 date specified.

1 * * *

2 (e) Redaction of information.--If law other than this title
3 prohibits the disclosure by the department of information
4 contained in a document in record form delivered to the
5 department for filing, the department shall accept the document
6 if it otherwise complies with this title but may redact the
7 information.

8 Section 3.1. Section 138 of Title 15 is amended to read:

9 § 138. Statement of correction.

10 (a) Filing of statement.--Whenever any document authorized
11 or required to be [filed in the Department of State] delivered
12 to the department for filing by any provision of this title has
13 been so filed and is an inaccurate record of the [corporate or
14 other] action therein referred to or was defectively or
15 erroneously executed, the document may be corrected by [filing
16 in the department] delivering to the department for filing a
17 statement of correction [of the document]. The statement of
18 correction, except as provided in subsection (c), shall be
19 [executed] signed by the association or other person that
20 [effected the] delivered the inaccurate, defective or erroneous
21 document for filing and shall set forth:

22 (1) The name of the association or other person and,
23 subject to section 109 (relating to name of commercial
24 registered office provider in lieu of registered address),
25 the location, including street and number, if any, of its
26 registered or other office.

27 (2) The statute by or under which the [corporation was
28 incorporated] association was formed, or the preceding filing
29 was made, in the case of a filing that does not constitute a
30 part of the [articles of incorporation of a corporation]

1 public organic record of an association.

2 (3) The inaccuracy or defect to be corrected.

3 (4) The portion of the document requiring correction in
4 corrected form or, if the document was erroneously executed,
5 a statement that the original document shall be deemed
6 reexecuted or stricken from the records of the department, as
7 the case may be.

8 (b) Effect of filing.--

9 (1) The corrected document shall be effective:

10 (i) Upon filing in the department, as to those
11 persons who are substantially and adversely affected by
12 the correction.

13 (ii) As of the date the original document was
14 effective, as to all other persons.

15 (2) A filing under this section shall not have the
16 effect of causing [original articles of incorporation of a
17 corporation or a similar type of document creating any other
18 form of association] the original public organic record of an
19 association to be stricken from the records of the department
20 but the [articles or other document] public organic record
21 may be corrected under this section.

22 (c) Filing pursuant to court order.--If the association or
23 other person refuses to [file] deliver to the department for
24 filing an appropriate statement of correction under this section
25 within ten business days after any person adversely affected has
26 made a [written demand therefor] demand in record form for the
27 correction, the affected person may apply to the court for an
28 order to compel the filing. If the court finds that a document
29 on file in the department is inaccurate [or defective],
30 defective or erroneous, it may direct the association or other

1 person who effected the inaccurate, defective or erroneous
2 filing to [file] deliver to the department for filing an
3 appropriate statement of correction [in the department], or it
4 may order the clerk to execute the statement under the seal of
5 the court and cause the statement to be [filed in the
6 department] delivered to the department for filing. In the
7 absence of fraud, an application may not be made to a court
8 under this subsection with respect to a document more than one
9 year after the date on which it was originally filed in the
10 department.

11 (d) Cross reference.--See section 135 (relating to
12 requirements to be met by filed documents).

13 Section 4. Section 139(a) of Title 15 is amended and the
14 section is amended by adding a subsection to read:

15 § 139. Tax clearance of certain fundamental transactions.

16 (a) [General rule] Requirement.--Except as provided in
17 subsection (c) or (d), [a domestic association shall not file
18 articles or a certificate of merger or consolidation effecting a
19 merger or consolidation into a nonqualified foreign association
20 or articles or a certificate of dissolution or a statement of
21 revival, a qualified foreign association shall not file an
22 application for termination of authority or similar document in
23 the Department of State and a domestic association shall not
24 file articles or a certificate of division dividing solely into
25 nonqualified foreign associations unless the articles,
26 certificate, application or other document are accompanied by]
27 clearance certificates from the Department of Revenue and the
28 [Office of Employment Security of the] Department of Labor and
29 Industry, evidencing the payment by the association of all taxes
30 and charges due the Commonwealth required by law[.] must be

1 delivered to the department for filing when any of the following
2 is delivered to the department for filing:

3 (1) Articles or a statement or certificate of merger
4 merging a domestic association into a nonregistered foreign
5 association.

6 (2) Articles or a statement or certificate of conversion
7 or domestication effecting a conversion or domestication of a
8 domestic association into a nonregistered foreign
9 association.

10 (3) Articles or a certificate of dissolution or a
11 statement of revival of a domestic association.

12 (4) An application for termination of registration, <--
13 STATEMENT OF WITHDRAWAL or similar document by a registered
14 foreign association.

15 (5) Articles or a statement or certificate of division
16 dividing a domestic association solely into foreign
17 associations.

18 * * *

19 (d) Registration of foreign associations.--It shall not be
20 necessary to deliver clearance certificates under subsection (a)
21 if, simultaneously with the delivery of the articles, statement
22 or certificate of merger, conversion, division or domestication:

23 (1) the foreign association that is the surviving,
24 converted or domesticated association registers to do
25 business in this Commonwealth; or

26 (2) at least one of the new foreign associations
27 resulting from the division registers to do business in this
28 Commonwealth.

29 Section 5. Title 15 is amended by adding sections to read:
30 § 141. ~~Withdrawal~~ ABANDONMENT of filing before effectiveness. <--

1 (a) General rule.--A document in record form delivered to
2 the department for filing may be ~~withdrawn~~ ABANDONED before it <--
3 takes effect by delivering to the department for filing a
4 statement of ~~withdrawal~~, except that a document that may be <--
5 abandoned under any of the following sections may not be
6 withdrawn under this section:

7 Section 334 (relating to amendment or abandonment of plan
8 of merger).

9 Section 344 (relating to amendment or abandonment of plan
10 of interest exchange).

11 Section 354 (relating to amendment or abandonment of plan
12 of conversion).

13 Section 365 (relating to amendment or abandonment of plan
14 of division).

15 Section 374 (relating to amendment or abandonment of plan
16 of domestication). ABANDONMENT. <--

17 (b) Requirements for statement of ~~withdrawal~~ ABANDONMENT.--A <--
18 statement of ~~withdrawal~~ ABANDONMENT must: <--

19 (1) be signed by a person with the authority to sign the
20 statement; and <--

21 (2) identify the document to be ~~withdrawn~~ ABANDONED; AND <--

22 (3) STATE THAT ABANDONMENT OF THE DOCUMENT HAS BEEN
23 VALIDLY APPROVED.

24 (c) Effect of statement of ~~withdrawal~~ ABANDONMENT.--Upon <--
25 filing by the department of a statement of ~~withdrawal~~ <--
26 ABANDONMENT, the action or transaction evidenced by the original <--
27 document shall not take effect.

28 § 142. Effect of signing filings.

29 (a) Affirmation of truth.--Signing a document delivered to
30 the department for filing is an affirmation under the penalties

1 provided in 18 Pa.C.S. § 4904 (relating to unsworn falsification
2 to authorities) that the facts stated in the document are true
3 in all material respects.

4 (b) Signature by agent or legal representative.--A document
5 filed under this title may be signed by an agent. If this title
6 requires a particular individual to sign a document and the
7 individual is deceased or incompetent, the document may be
8 signed by a legal representative of the individual on behalf of
9 the individual.

10 (c) Affirmation of authority.--A person that signs a
11 document delivered to the department for filing affirms as a
12 fact that the person is authorized to sign the document.

13 § 143. Liability for inaccurate information in filing.

14 If a document that is delivered to the department for filing
15 under this title and filed by the department contains inaccurate
16 information at the time of delivery to the department, a person
17 that suffers a loss by reliance on the information may recover
18 damages for the loss from a person that signed the document or
19 caused another to sign it on behalf of the person and knew at
20 the time the document was delivered that the information was
21 inaccurate.

22 § 144. Signing and filing pursuant to judicial order.

23 (a) Petition.--If a person required by this title to sign a
24 document or deliver a document to the department for filing
25 under this title does not do so, another person that is
26 aggrieved may petition the court to order:

27 (1) the person to sign the document;

28 (2) the person to deliver the document to the department
29 for filing; or

30 (3) the department to file the document unsigned.

1 (b) Association.--If a petitioner under subsection (a) is
2 not the association to which the document pertains, the
3 petitioner shall make the association a party to the action.

4 (c) Effect.--A record filed under subsection (a)(3) is
5 effective without being signed.

6 § 145. Subsistence certificate.

7 (a) General rule.--On request of a person, the department
8 shall issue:

9 (1) a subsistence certificate for a domestic filing
10 entity or domestic limited liability partnership; or

11 (2) a certificate of registration for a registered
12 foreign association.

13 (b) Contents of certificate.--A certificate under subsection
14 (a) must state:

15 (1) the name of the domestic filing entity or domestic
16 limited liability partnership or the name under which the
17 registered foreign association is registered in this
18 Commonwealth.

19 (2) in the case of a domestic filing entity or domestic
20 limited liability partnership, that the entity is currently
21 subsisting on the records of the department; and

22 (3) in the case of a registered foreign association,
23 that it is registered to do business in this Commonwealth.

24 (c) Effect of certificate.--Subject to any qualification
25 stated in the certificate, a certificate issued by the
26 department under subsection (a) may be relied on as conclusive
27 evidence of the facts stated in the certificate.

28 Section 5.1. Paragraph (6) of the definition of "ancillary
29 transaction" in section 152 of Title 15 is amended and the
30 definition is amended by adding a paragraph to read:

1 § 152. Definitions.

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

5 "Ancillary transaction." Includes:

6 * * *

7 (6) any transaction similar to any item listed in
8 paragraphs (1) through (5); [or]

9 (6.1) withdrawal, abandonment or termination of a
10 document which has been delivered to the department for
11 filing but has not yet become effective; or

12 * * *

13 Section 6. Section 153(a) of Title 15 is amended to read:

14 § 153. Fee schedule.

15 (a) General rule.--The nonrefundable fees of the bureau,
16 including fees for the public acts and transactions of the
17 Secretary of the Commonwealth administered through the bureau,
18 shall be as follows:

19 [(1) Domestic corporations:

20 (i) Articles of incorporation, letters
21 patent or similar instruments incorporating a
22 corporation or association..... \$125

23 (ii) Articles or agreement or similar
24 instrument of merger, consolidation or division.. 70

25 (iii) Additional fee for each association
26 which is a party to a merger or consolidation.... 40

27 (iv) Additional fee for each new association
28 resulting from a division..... 125

29 (v) Articles of conversion or a similar
30 instrument..... 70

1	(vi) Each ancillary transaction.....	70
2	(2) Foreign corporations:	
3	(i) Certificates of authority or similar	
4	qualifications to do business.....	250
5	(ii) Amended certificate of authority or	
6	similar change in qualification to do business...	250
7	(iii) Domestication.....	125
8	(iv) Statement of merger or consolidation or	
9	similar instrument reporting occurrence of merger	
10	or consolidation not effected by a filing in the	
11	department.....	70
12	(v) Additional fee for each qualified	
13	foreign corporation which is named in a statement	
14	of merger or consolidation or similar instrument.	40
15	(vi) Each ancillary transaction.....	70
16	(3) Partnerships and limited liability companies:	
17	(i) Certificate of limited partnership or	
18	certificate of organization of a limited	
19	liability company or similar instrument forming a	
20	limited partnership or organizing a limited	
21	liability company.....	125
22	(ii) Certificate of merger, consolidation or	
23	division.....	70
24	(iii) Additional fee for each association	
25	which is a party to a merger or consolidation....	40
26	(iv) Additional fee for each new association	
27	resulting from a division.....	125
28	(v) Application for registration of foreign	
29	limited partnership or limited liability company.	250
30	(vi) Certificate of amendment of	

1	registration of foreign limited partnership or	
2	limited liability company.....	250
3	(vii) Statement of registration of	
4	registered limited liability partnership or	
5	statement of election as an electing partnership.	125
6	(viii) Domestication of foreign limited	
7	liability company.....	125
8	(ix) Each ancillary transaction.....	70
9	(4) Unincorporated nonprofit associations:	
10	(i) Statement appointing an agent to receive	
11	service of process.....	70
12	(ii) Resignation of appointed agent.....	40
13	(iii) Amendment or cancellation of statement	
14	appointing an agent.....	70
15	(5) Business trusts:	
16	(i) Deed of trust or other initial	
17	instrument for a business	125
18	trust.....	
19	(ii) Each ancillary transaction.....	70
20	(6) Fictitious names:	
21	(i) Registration.....	70
22	(ii) Each ancillary transaction.....	70
23	(7) Service of process:	
24	(i) Each defendant named or served.....	70
25	(ii) (Reserved).....	
26	(8) Trademarks, emblems, union labels,	
27	description of bottles and similar matters:	
28	(i) Trademark registration.....	50
29	(ii) Each ancillary trademark transaction...	50
30	(iii) Any other registration under this	

1	paragraph.....	70
2	(iv) Any other ancillary transaction under	
3	this paragraph.....	70
4	(9) Uniform Commercial Code: As provided in 13	
5	Pa.C.S. § 9525 (relating to fees).	
6	(10) Copy fees, including copies furnished under	
7	the Uniform Commercial Code:	
8	(i) Each page of photocopy furnished.....	3
9	(ii) (Reserved).....	
10	(11) Certification fees:	
11	(i) For certifying copies of any document or	
12	paper on file, the fee specified in paragraph	
13	(10), if the department furnished the copy, plus.	40
14	(ii) (Reserved).....	
15	(iii) For issuing any other certificate of	
16	the Secretary of the Commonwealth or the	
17	department (other than an engrossed certificate).	40
18	(12) Report of record search other than a search	
19	under paragraph (9):	
20	(i) For preparing and providing a report of	
21	a record search, the fee specified in paragraph	
22	(10), if any, plus.....	15
23	(ii) (Reserved).....	
24	(13) Reservation and registration of names:	
25	(i) Reservation of association name.....	70
26	(ii) Registration of foreign or other	
27	corporation name.....	70
28	(14) Change of registered office or address:	
29	(i) Each statement of change of registered	
30	office by agent.....	5

1	(ii) Each statement or certificate of change	
2	of registered office.....	5
3	(iii) Each statement of change of address...	5
4	(15) Contingent domestication:	
5	(i) Statement of contingent domestication...	125
6	(ii) Each year, or portion of a year, during	
7	which a contingent domestication or temporary	
8	domiciliary status is in effect.....	1,500
9	(16) Expedited service:	
10	(i) For the processing of any filing under	
11	this title or 13 Pa.C.S. (relating to commercial	
12	code) which is received by the bureau before 4	
13	p.m. and is requested to be completed within one	
14	hour, an additional fee of.....	1,000
15	(ii) For the processing of any filing under	
16	this title or 13 Pa.C.S. which is received by the	
17	bureau before 2 p.m. and is requested to be	
18	completed within three hours, an additional fee	
19	of	300
20	
21	(iii) For processing of any filing under	
22	this title or 13 Pa.C.S. which is received by the	
23	bureau before 10 a.m. and is requested to be	
24	completed the same day, an additional fee of.....	100]
25	<u>(1) Domestic corporations:</u>	
26	<u>(i) Articles of incorporation, letters patent</u>	
27	<u>or similar instruments incorporating a corporation</u>	<u>\$125</u>
28	<u>(ii) Each ancillary transaction.....</u>	<u>70</u>
29	<u>(2) Foreign associations:</u>	
30	<u>(i) Registration statement or similar</u>	

1	<u>qualifications to do business.....</u>	<u>250</u>
2	(ii) <u>Amendment of registration statement or</u>	
3	<u>similar change in qualification to do business....</u>	<u>250</u>
4	(iii) <u>Domestication of alien association</u>	
5	<u>under section 161 (relating to domestication of</u>	
6	<u>certain alien associations).....</u>	<u>250</u>
7	(iv) <u>Statement of merger, division or</u>	
8	<u>conversion or similar instrument reporting</u>	
9	<u>occurrence of merger, division or conversion not</u>	
10	<u>effected by a filing in the department.....</u>	<u>70</u>
11	(v) <u>Additional fee for each qualified foreign</u>	
12	<u>association which is named in a statement of</u>	
13	<u>merger or similar instrument.....</u>	<u>40</u>
14	(vi) <u>Each ancillary transaction.....</u>	<u>70</u>
15	(3) <u>Partnerships and limited liability companies:</u>	
16	(i) <u>Certificate of limited partnership or</u>	
17	<u>certificate of organization of a limited liability</u>	
18	<u>company.....</u>	<u>125</u>
19	(ii) <u>Statement of registration of registered</u>	
20	<u>limited liability partnership or statement of</u>	
21	<u>election as an electing partnership.....</u>	<u>125</u>
22	(iii) <u>Each ancillary transaction.....</u>	<u>70</u>
23	(4) <u>Unincorporated nonprofit associations:</u>	
24	(i) <u>Statement appointing an agent to receive</u>	
25	<u>service of process.....</u>	<u>70</u>
26	(ii) <u>Resignation of appointed agent.....</u>	<u>40</u>
27	(iii) <u>Amendment or cancellation of statement</u>	
28	<u>appointing an agent.....</u>	<u>70</u>
29	(5) <u>Business trusts:</u>	
30	(i) <u>Declaration of trust or other initial</u>	

1	<u>instrument for a business trust.....</u>	<u>125</u>
2	<u>(ii) Each ancillary transaction.....</u>	<u>70</u>
3	<u>(6) Fictitious names:</u>	
4	<u>(i) Registration.....</u>	<u>70</u>
5	<u>(ii) Each ancillary transaction.....</u>	<u>70</u>
6	<u>(7) Service of process:</u>	
7	<u>(i) Each defendant named or served.....</u>	<u>70</u>
8	<u>(ii) (Reserved).</u>	
9	<u>(8) Trademarks, emblems, union labels,</u>	
10	<u>description of bottles and similar matters:</u>	
11	<u>(i) Trademark registration.....</u>	<u>50</u>
12	<u>(ii) Each ancillary trademark transaction....</u>	<u>50</u>
13	<u>(iii) Another registration under this</u>	
14	<u>paragraph.....</u>	<u>70</u>
15	<u>(iv) Another ancillary transaction under this</u>	
16	<u>paragraph.....</u>	<u>70</u>
17	<u>(9) Uniform Commercial Code:</u>	
18	<u>(i) As provided in 13 Pa.C.S. § 9525</u>	
19	<u>(relating to fees).</u>	
20	<u>(ii) (Reserved).</u>	
21	<u>(10) Copy fees, including copies furnished under</u>	
22	<u>the Uniform Commercial Code:</u>	
23	<u>(i) Each page furnished.....</u>	<u>3</u>
24	<u>(ii) (Reserved).</u>	
25	<u>(11) Certification fees:</u>	
26	<u>(i) For certifying copies of a document or</u>	
27	<u>paper on file, the fee specified under paragraph</u>	
28	<u>(10), if the department furnished the copy, plus..</u>	<u>40</u>
29	<u>(ii) (Reserved).</u>	
30	<u>(iii) For issuing any other certificate of</u>	

1	<u>the Secretary of the Commonwealth or the</u>	
2	<u>department, other than an engrossed certificate...</u>	<u>40</u>
3	<u>(iv) For preparing and issuing an engrossed</u>	
4	<u>certificate.....</u>	<u>125</u>
5	<u>(12) Report of record search other than a search</u>	
6	<u>under paragraph (9):</u>	
7	<u>(i) For preparing and providing a report of a</u>	
8	<u>record search, the fee specified in paragraph</u>	
9	<u>(10), if any, plus.....</u>	<u>15</u>
10	<u>(ii) (Reserved).</u>	
11	<u>(13) Reservation and registration of names:</u>	
12	<u>(i) Reservation of association name.....</u>	<u>70</u>
13	<u>(ii) Registration of foreign association name</u>	<u>70</u>
14	<u>(14) Change of registered office or address:</u>	
15	<u>(i) Each statement of change of registered</u>	
16	<u>office by agent.....</u>	<u>5</u>
17	<u>(ii) Each statement or certificate of change</u>	
18	<u>of registered office.....</u>	<u>5</u>
19	<u>(iii) Each statement of change of address....</u>	<u>5</u>
20	<u>(15) Expedited service:</u>	
21	<u>(i) For the processing of a filing under this</u>	
22	<u>title or 13 Pa.C.S. (relating to commercial code)</u>	
23	<u>which is received by the bureau before 4 p.m. and</u>	
24	<u>is requested to be completed within one hour, an</u>	
25	<u>additional fee of.....</u>	<u>1,000</u>
26	<u>(ii) For the processing of a filing under</u>	
27	<u>this title or 13 Pa.C.S. which is received by the</u>	
28	<u>bureau before 2 p.m. and is requested to be</u>	
29	<u>completed within three hours, an additional fee of</u>	<u>300</u>
30	<u>(iii) For processing of a filing under this</u>	

1	<u>title or 13 Pa.C.S. which is received by the</u>	
2	<u>bureau before 10 a.m. and is requested to be</u>	
3	<u>completed the same day, an additional fee of.....</u>	<u>100</u>
4	<u>(16) Entity transactions:</u>	
5	<u>(i) Statement of merger, interest exchange,</u>	
6	<u>conversion, division or domestication.....</u>	<u>70</u>
7	<u>(ii) Additional fee for each association that</u>	
8	<u>is a party to a merger.....</u>	<u>40</u>
9	<u>(iii) Additional fee for each new association</u>	
10	<u>resulting from a division.....</u>	<u>125</u>
11	<u>(iv) Each ancillary transaction.....</u>	<u>70</u>
12	<u>(17) Special processing fees:</u>	
13	<u>(i) Request that multiple documents delivered</u>	
14	<u>to the department on the same day be filed in a</u>	
15	<u>certain order.....</u>	<u>70</u>
16	<u>(ii) (Reserved).</u>	

17 * * *

18 Section 7. Subchapter D heading of Chapter 1 of Title 15 is
19 amended to read:

20 SUBCHAPTER D
21 [DEFINITIVE AND CONTINGENT] DOMESTICATION
22 OF CERTAIN ALIEN ASSOCIATIONS

23 Section 8. Section 161(b) introductory paragraph, (1) and
24 (5), (e) and (f) of Title 15 are amended to read:

25 § 161. Domestication of certain alien associations.

26 * * *

27 (b) Statement of domestication.--The statement of
28 domestication shall be [executed] signed by the association and
29 shall set forth in the English language:

30 (1) The name of the association. If the name is in a

1 foreign language, it shall be set forth in Roman letters or
2 characters or Arabic or Roman numerals. If the name is one
3 that is rendered unavailable for use by a [corporation by any
4 provision of section 1303(b) or (c) (relating to corporate
5 name)] domestic entity by section 202(b) or (c) (relating to
6 requirements for names generally), the association shall
7 adopt a new name, in accordance with any procedures for
8 changing the name of the association that are applicable
9 prior to the domestication of the association, and shall set
10 forth the new name in the statement.

11 * * *

12 (5) A statement that the filing of the statement of
13 domestication and, if desired, the renunciation of the prior
14 domicile has been authorized (unless its [charter or other
15 organic documents] organic rules require a greater vote) by a
16 majority in interest of the [shareholders, members or other
17 proprietors] interest holders of the association.

18 * * *

19 (e) Exclusion.--An association that can be domesticated
20 under [any of the following sections shall not be domesticated
21 under this section:

22 Section 4161 (relating to domestication).

23 Section 6161 (relating to domestication).

24 Section 8590 (relating to domestication).

25 Section 8982 (relating to domestication).

26 Section 9501(a)(1)(ii) (relating to application and effect of
27 chapter)] Subchapter G of Chapter 3 (relating to domestication)
28 shall not be domesticated under this section.

29 (f) Definition.--As used in this section, the term
30 "association," except as restricted by subsection (e), includes

1 any [alien] incorporated organization, private law corporation
2 (whether or not organized for business purposes), public law
3 corporation, partnership, proprietorship, joint venture,
4 foundation, trust, association or similar organization or entity
5 existing under the laws of any jurisdiction other than this
6 Commonwealth.

7 * * *

8 Section 8.1. Section 162 of Title 15 is repealed:

9 [§ 162. Contingent domestication of certain alien associations.

10 (a) General rule.--Any association as defined in subsection
11 (i) may become a contingent domestic association by filing in
12 the Department of State a statement of contingent domestication.
13 The statement of contingent domestication and all papers and
14 information relating thereto shall remain confidential and shall
15 not be available for public inspection until and unless the
16 association files a statement of consummation of domestication
17 as provided in subsection (c).

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

21 (1) In the case of:

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

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

30 (iii) a limited partnership subject to section 8590

1 (relating to domestication), the statements required to
2 be set forth in a certificate of domestication (except
3 the statement required by section 8590(b)(5));

4 (iv) a limited liability company subject to section
5 8982 (relating to domestication), the statements required
6 to be set forth in a certificate of domestication (except
7 the statement required by section 8982(b)(5));or

8 (v) any other association, the statements required
9 by section 161(b) (relating to statement of
10 domestication) to be set forth in a statement of
11 domestication (except the statement required by section
12 161(b)(5)).

13 (2) A statement that the effectiveness of the statement
14 is contingent upon the subsequent filing of a statement of
15 consummation of domestication.

16 (3) A statement that the filing of the statement of
17 contingent domestication and the delegation of authority to
18 file a statement of consummation of domestication has been
19 authorized (unless its charter or other organic documents
20 require a greater vote):

21 (i) by a majority vote of the votes cast by all
22 shareholders entitled to vote thereon and, if any class
23 of shares is entitled to vote thereon as a class, a
24 majority of the votes cast in each class vote, in the
25 case of a corporation subject to section 4161;

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

1 (iii) by a majority vote of the votes cast by all
2 partners entitled to vote thereon and, if any class of
3 partners is entitled to vote thereon as a class, a
4 majority of the votes cast in each class vote, in the
5 case of a limited partnership subject to section 8590;

6 (iv) by a majority vote of the votes cast by all
7 members entitled to vote thereon and, if any class of
8 members is entitled to vote thereon as a class, a
9 majority of the votes cast in each class vote, in the
10 case of a limited liability company subject to section
11 8982; or

12 (v) by a majority in interest of the shareholders,
13 members or other proprietors of the association in any
14 other case.

15 (c) Statement of consummation of domestication.--At any time
16 after the filing of a statement of contingent domestication, the
17 association may file in the department a statement of
18 consummation of domestication which shall be executed by the
19 association and shall set forth:

20 (1) The name of the association as set forth in its
21 statement of contingent domestication.

22 (2) A statement that either:

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

29 (ii) an event has occurred that, under the law of
30 the jurisdiction governing the internal affairs of the

1 association, permits the association to transfer its
2 domicile.

3 (d) Statement of termination of domestication.--At any time
4 after the filing of a statement of consummation of
5 domestication, the association may file in the department a
6 statement of termination of domestication which shall be
7 executed by the association and shall set forth:

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

10 (2) If a statement of consummation of domestication has
11 theretofore been filed and is then in effect, a statement
12 that the association elects to terminate its domicile in this
13 Commonwealth.

14 (3) A statement that either:

15 (i) the statement of contingent domestication is
16 reinstated pending the filing in the department of a new
17 statement of consummation of domestication; or

18 (ii) the statement of contingent domestication is
19 withdrawn.

20 (e) Execution of filings.--All documents filed under this
21 section shall be signed on behalf of the association by any
22 authorized person.

23 (f) Effect of filing statement of consummation of
24 domestication.--Upon the filing of a statement of consummation
25 of domestication, and until the filing of a statement of
26 termination of domestication, the association shall have the
27 status under the law of this Commonwealth of:

28 (1) a business corporation domesticated under section
29 4161, in the case of a corporation subject to that section;

30 (2) a nonprofit corporation domesticated under section

1 6161, in the case of a corporation subject to that section;

2 (3) a limited partnership domesticated under section
3 8590, in the case of a limited partnership subject to that
4 section;

5 (4) a limited liability company domesticated under
6 section 8982, in the case of a limited liability company
7 subject to that section; or

8 (5) an association domesticated under section 161, in
9 any other case.

10 (g) Effect of filing a statement of termination of
11 domestication.--Upon the filing of a statement of termination of
12 domestication, the association shall under the law of this
13 Commonwealth revert to the status it held prior to the filing
14 of:

15 (1) the statement of consummation of domestication, if
16 the statement of termination of domestication states that the
17 statement of contingent domestication is reinstated; or

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

21 (h) Annual renewal.--A renewal application may be filed
22 between October 1 and December 31 in each year and shall extend
23 the applicability of this section for the following calendar
24 year. Otherwise the association shall not be entitled to any of
25 the benefits of this section. See section 153(a)(14) (relating
26 to contingent domestication).

27 (i) Definition.--As used in this section, the term
28 "association" includes any incorporated organization, private
29 law corporation (whether or not organized for business
30 purposes), public law corporation, partnership, proprietorship,

1 joint venture, foundation, trust, association or similar
2 organization or entity if such association or entity immediately
3 prior to effecting an initial filing under this section is an
4 association or entity governed by the law of any jurisdiction
5 other than the United States or any state, Puerto Rico or any
6 possession or territory of the United States.

7 (j) Cross references.--See sections 134 (relating to
8 docketing statement) and 135 (relating to requirements to be met
9 by filed documents).]

10 Section 9. Title 15 is amended by adding chapters to read:

11 CHAPTER 2

12 ENTITIES GENERALLY

13 Subchapter

14 A. Names

15 B. (Reserved)

16 SUBCHAPTER A

17 NAMES

18 Sec.

19 201. Definitions.

20 202. Requirements for names generally.

21 203. Corporation names.

22 204. Partnership and limited liability company names.

23 205. Business trust names.

24 206. Requirements for foreign association names.

25 207. Required name changes by senior associations.

26 208. Reservation of name.

27 209. Registration of name of nonregistered foreign association.

28 § 201. Definitions.

29 The following words and phrases when used in this subchapter
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Covered association." Any of the following:

3 (1) a domestic filing entity;

4 (2) a domestic limited liability partnership;

5 (3) an electing partnership; or

6 (4) a registered foreign association.

7 "Proper name." The name set forth in:

8 (1) the public organic record of a domestic filing
9 association;

10 (2) the statement of registration of a limited liability
11 partnership;

12 (3) the statement of election of an electing
13 partnership; or

14 (4) the statement of registration of a registered
15 foreign association under section 412(a)(1)(i) (relating to
16 foreign registration statement) or, if that name does not
17 comply with this section, the name set forth in the statement
18 under section 412(a)(1)(ii).

19 § 202. Requirements for names generally.

20 (a) General rule.--The proper name of a covered association
21 may be in any language, but it must be expressed in Roman
22 letters or characters, Arabic or Roman numerals or symbols or
23 characters specified by regulation of the department under
24 section 133(a)(3)(vi) (relating to powers of Department of
25 State).

26 (b) Duplicate use of names.--Except as provided in
27 subsection (f), the proper name of a covered association must be
28 distinguishable on the records of the department from the
29 following:

30 (1) The proper name of another covered association or

1 the name of an association registered at any time under 54
2 Pa.C.S. Ch. 5 (relating to corporate and other association
3 names), unless the covered association or other association
4 has:

5 (i) stated that it is about to change its name, is
6 about to cease to do business, is being wound up or is a
7 foreign association about to withdraw from doing business
8 in this Commonwealth, and the statement and a consent to
9 the adoption of the name are delivered to the department
10 for filing;

11 (ii) filed a tax return or certificate with the
12 Department of Revenue indicating that the covered
13 association or other association is out of existence or
14 has failed for a period of three successive years to file
15 with the Department of Revenue a report or return
16 required by law and the fact of the failure has been
17 certified by the Department of Revenue to the Department
18 of State;

19 (iii) abandoned its name under the laws of its
20 jurisdiction of formation, by amendment, merger,
21 consolidation, division, expiration, dissolution or
22 otherwise, without its name being adopted by a successor,
23 and an official record of that fact, certified as
24 provided under 42 Pa.C.S. § 5328 (relating to proof of
25 official records), is presented by a person to the
26 department; or

27 (iv) had the registration of its name under 54
28 Pa.C.S. Ch. 5 terminated.

29 (2) A name that has been reserved or registered pursuant
30 to section 208 (relating to reservation of name) or 209

1 (relating to registration of name of nonregistered foreign
2 association). A name shall be rendered unavailable for use
3 under this subchapter by reason of the filing by the
4 department of an assumed or fictitious name registration
5 under 54 Pa.C.S. Ch. 3 (relating to fictitious names) only to
6 the extent expressly provided in 54 Pa.C.S. Ch. 3.

7 (c) Required approvals or conditions.--

8 (1) The proper name of a covered association shall not
9 imply that the association is:

10 (i) A governmental agency of the Commonwealth or of
11 the United States.

12 (ii) A bank, bank and trust company, savings bank,
13 private bank or trust company, as defined in the act of
14 November 30, 1965 (P.L.847, No.356), known as the Banking
15 Code of 1965, unless:

16 (A) The association is a Pennsylvania bank
17 holding company or is otherwise authorized by statute
18 to use its name.

19 (B) The association is a nonprofit corporation
20 holding property in trust under section 5547
21 (relating to authority to take and hold trust
22 property) and has been converted from a trust company
23 under Subchapter E of Chapter 3 (relating to
24 conversion). The preceding sentence controls over
25 section 805(b) of the Banking Code of 1965.

26 (iii) An insurance company, nor contain any of the
27 words "annuity," "assurance," "beneficial," "bond,"
28 "casualty," "endowment," "fidelity," "fraternal,"
29 "guaranty," "indemnity," "insurance," "insurer,"
30 "reassurance," "reinsurance," "surety" or "title" when

1 used in a manner as to imply that the association is
2 engaged in the business of writing insurance or
3 reinsurance as principal or any other words of like
4 purport unless it is duly licensed as an insurance
5 company by its jurisdiction of formation or the Insurance
6 Department certifies that it has no objection to the use
7 by the association or proposed association of the
8 designation. The proper name of a domestic insurance
9 company shall:

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

12 (B) clearly designate the object and purpose of
13 the association.

14 (iv) A public utility furnishing electric or gas
15 service to the public, unless the association or proposed
16 association has as an express purpose the furnishing of
17 service subject to the jurisdiction of the Pennsylvania
18 Public Utility Commission or the Federal Energy
19 Regulatory Commission.

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

22 (2) The proper name of a covered association shall not
23 contain:

24 (i) The word "college," "university" or "seminary"
25 when used in a manner as to imply that it is an
26 educational institution conforming to the standards and
27 qualifications prescribed by the State Board of
28 Education, unless there is submitted a certificate from
29 the Department of Education certifying that the
30 association or proposed association is entitled to use

1 that designation.

2 (ii) Words that constitute blasphemy, profane
3 cursing or swearing or that profane the Lord's name.

4 (iii) The words "engineer" or "engineering,"
5 "surveyor" or "surveying" or any other word implying that
6 any form of the practice of engineering or surveying as
7 defined in the act of May 23, 1945 (P.L.913, No.367),
8 known as the Engineer, Land Surveyor and Geologist
9 Registration Law, is provided unless at least one of the
10 individuals signing the initial public organic record of
11 the association or one of the governors of the existing
12 association has been properly registered with the State
13 Registration Board for Professional Engineers in the
14 practice of engineering or surveying and there is
15 submitted to the department a certificate from the board
16 to that effect.

17 (iv) The words "architect" or "architecture" or any
18 other word implying that any form of the practice of
19 architecture as defined in the act of December 14, 1982
20 (P.L.1227, No.281), known as the Architects Licensure
21 Law, is provided unless at least one of the individuals
22 signing the initial public organic record of the
23 association or one of the governors of the existing
24 association has been properly registered with the
25 Architects Licensure Board in the practice of
26 architecture and there is submitted to the department a
27 certificate from the board to that effect.

28 (v) The word "cooperative" or an abbreviation
29 thereof unless the corporation is a cooperative
30 corporation.

1 (vi) Any other words prohibited by law. See section
2 103 (relating to subordination of title to regulatory
3 laws).

4 (d) Other rights unaffected.--This section shall not
5 abrogate or limit the law as to unfair competition or unfair
6 practices nor derogate from the common law, the principles of
7 equity or the provisions of 54 Pa.C.S. (relating to names) with
8 respect to the right to acquire and protect trade names.

9 (e) Remedies for violation of section.--The use of a name in
10 violation of this section shall not vitiate or otherwise affect
11 the existence or any acts of an association, but a court having
12 jurisdiction may enjoin the association from using or continuing
13 to use a name in violation of this section on the application
14 of:

15 (1) the Attorney General, acting on his or her own
16 motion or at the instance of an administrative department,
17 board or commission of this Commonwealth; or

18 (2) a person adversely affected.

19 (f) Court-ordered use of name.--Subsection (b) shall not
20 apply if an association delivers to the department for filing a
21 certified copy of a final judgment of a court of competent
22 jurisdiction establishing the right of the association to use a
23 name in this Commonwealth.

24 § 203. Corporation names.

25 (a) Business corporations.--The proper name of a domestic or
26 registered foreign business corporation must contain:

27 (1) the word "corporation," "company," "incorporated" or
28 "limited" or an abbreviation of any of the terms;

29 (2) the word "association," "fund" or "syndicate"; or

30 (3) words or abbreviations of like import used in a

1 jurisdiction other than this Commonwealth.

2 (b) Nonprofit corporations.--The proper name of a domestic
3 nonprofit corporation or registered foreign corporation not-for-
4 profit shall not be required to contain one of the words or
5 abbreviations described under subsection (a).

6 § 204. Partnership and limited liability company names.

7 (a) Limited liability partnerships.--The proper name of a
8 domestic limited liability partnership or registered foreign
9 limited liability partnership must contain the term "company,"
10 "limited" or "limited liability partnership," or an abbreviation
11 of one of those terms, or words or abbreviations of like import
12 used in a jurisdiction other than this Commonwealth.

13 (b) Limited partnerships.--The proper name of a domestic or
14 registered foreign limited partnership:

15 (1) shall not be required to contain a word or
16 abbreviation indicating that it is a limited partnership;

17 (2) if it is a limited liability limited partnership,
18 must contain:

19 (i) the term "company," "limited" or "limited
20 liability limited partnership" or a term of like import;
21 or

22 (ii) an abbreviation of a term under subparagraph
23 (i); and

24 (3) may contain the name of a partner.

25 (c) Limited liability companies.--The proper name of a
26 domestic limited liability company or registered foreign limited
27 liability company must contain the term "company," "limited" or
28 "limited liability company," or an abbreviation of one of those
29 terms, or words or abbreviations of like import used in a
30 jurisdiction other than this Commonwealth.

1 § 205. Business trust names.

2 The proper name of a domestic business trust or registered
3 foreign business trust shall not be required to contain a word
4 or abbreviation indicating that it is a business trust.

5 § 206. Requirements for foreign association names.

6 (a) General rule.--The department shall not file a
7 registration statement pursuant to section 412 (relating to
8 foreign registration statement) for a foreign association that,
9 except as provided under subsection (b), has a name that is
10 rendered unavailable for use by a covered association under
11 section 202(a), (b) or (c) (1) (i), (iii), (iv) or (v) or (2)
12 (relating to requirements for names generally).

13 (b) Exception.--The provisions of section 202(b) and (c)
14 shall not prevent the filing of a registration statement of a
15 foreign association setting forth a name that is prohibited by
16 section 202(b) and (c) if the foreign association delivers to
17 the department for filing a resolution of its governors adopting
18 a name for use in registering to do business in this
19 Commonwealth that is available for use by a covered association.

20 § 207. Required name changes by senior associations.

21 (a) Loss of rights to name.--A covered association shall
22 cease to have the exclusive right to its proper name if the
23 association:

24 (1) has failed to file in the Department of Revenue a
25 report or a return required by law;

26 (2) has filed in the Department of Revenue a tax return
27 or certificate indicating that it is out of existence; or

28 (3) has failed to file the most recent required
29 decennial filing under 54 Pa.C.S. § 503 (relating to
30 decennial filings required).

1 (b) Adoption of new name on reactivation.--Upon the removal
2 of the reason why a covered association has lost the exclusive
3 right to its proper name under subsection (a), the association
4 shall make inquiry with the Department of State with regard to
5 the availability of its name and, if the name has been
6 appropriated by another person, the covered association shall
7 adopt a new name in accordance with law before resuming its
8 activities.

9 (c) Enforcement of undertaking to release name.--If a
10 covered association has used a name that is not distinguishable
11 on the records of the Department of State from the name of
12 another association as permitted by section 202(b)(1) (relating
13 to requirements for names generally) and the other association
14 continues to use its name in this Commonwealth and does not
15 change its name, cease to do business, be wound up or withdraw
16 as it proposed to do in its consent or change its name as
17 required by subsection (a), any court having jurisdiction may
18 enjoin the other association from continuing to use its name or
19 a name that is not distinguishable therefrom on the application
20 of:

21 (1) the Attorney General, acting on his or her own
22 motion or at the instance of an administrative department,
23 board or commission of this Commonwealth; or

24 (2) any person adversely affected.

25 § 208. Reservation of name.

26 (a) General rule.--The exclusive right to the use of a name
27 may be reserved by any person. The reservation shall be made by
28 delivering to the department an application to reserve a
29 specified name, signed by the applicant. If the department finds
30 that the name is available for use, it shall reserve the name

1 for the exclusive use of the applicant for a period of 120 days.

2 (b) Transfer of reservation.--The right to exclusive use of
3 a name reserved pursuant to subsection (a) may be transferred to
4 any other person by delivering to the department a notice in
5 record form of the transfer, signed by the person who reserved
6 the name, and specifying the name and address of the other
7 person.

8 (c) Cross references.--See:

9 Section 134 (relating to docketing statement).

10 Section 135 (relating to requirements to be met by filed
11 documents).

12 Section 209 (relating to registration of name of
13 nonregistered foreign association).

14 § 209. Registration of name of nonregistered foreign
15 association.

16 (a) General rule.--A nonregistered foreign association may
17 register its name under 54 Pa.C.S. Ch. 5 (relating to corporate
18 and other association names) if the name is available for use by
19 a registered foreign association pursuant to section 206
20 (relating to requirements for foreign association names) by
21 delivering to the department for filing an application for
22 registration of name, signed by the association, setting forth:

23 (1) The name of the association.

24 (2) The address, including street and number, if any, of
25 the principal office of the association.

26 (b) Annual renewal.--An association that has in effect a
27 registration of its name may renew the registration from year to
28 year by annually delivering to the department for filing an
29 application for renewal setting forth the facts required to be
30 set forth in an original application for registration. A renewal

1 application may be filed between October 1 and December 31 in
2 each year and shall extend the registration for the following
3 calendar year.

4 (c) Use of registered name.--A foreign association whose
5 name registration is effective may register as a foreign
6 association under the registered name or consent in record form
7 to the use of that name by another association.

8 (d) Cross references.--See sections 134 (relating to
9 docketing statement) and 135 (relating to requirements to be met
10 by filed documents).

11 SUBCHAPTER B

12 (RESERVED)

13 CHAPTER 3

14 ENTITY TRANSACTIONS

15 Subchapter

16 A. Preliminary Provisions

17 B. Approval of Entity Transactions

18 C. Merger

19 D. Interest Exchange

20 E. Conversion

21 F. Division

22 G. Domestication

23 SUBCHAPTER A

24 PRELIMINARY PROVISIONS

25 Sec.

26 311. Short title of chapter.

27 312. Definitions.

28 313. Relationship of chapter to other provisions of law.

29 314. Regulatory conditions and required notices and approvals.

30 315. Nature of transactions.

1 316. Contents of plan.

2 317. Contractual dissenters rights in entity transactions.

3 318. Excluded entities and transactions.

4 319. Party to plan or transaction.

5 320. Submission of matters to interest holders.

6 § 311. Short title of chapter.

7 This chapter shall be known and may be cited as the Entity
8 Transactions Law.

9 § 312. Definitions.

10 (a) Definitions.--The following words and phrases when used
11 in this chapter shall have the meanings given to them in this
12 subsection unless the context clearly indicates otherwise:

13 "Acquired association." The domestic entity or foreign
14 association, all of one or more classes or series of interests
15 in which are acquired in an interest exchange.

16 "Acquiring association." The domestic entity or foreign
17 association that acquires all of one or more classes or series
18 of interests of the acquired association in an interest
19 exchange.

20 "Conversion." A transaction authorized by Subchapter E
21 (relating to conversion).

22 "Converted association." The converting association as it
23 continues in existence after a conversion.

24 "Converting association." The domestic entity or domestic
25 banking institution that approves a plan of conversion pursuant
26 to section 353 (relating to approval of conversion) or the
27 foreign association that approves a conversion pursuant to the
28 law of its jurisdiction of formation.

29 "Dividing association." The domestic entity that approves a
30 plan of division pursuant to section 363 (relating to approval

1 of division) or 364 (relating to division without interest
2 holder approval) or the foreign association that approves a
3 division pursuant to the law of its jurisdiction of formation.

4 "Division." A transaction authorized by Subchapter F
5 (relating to division).

6 "Domesticated entity." The domesticating entity as it
7 continues in existence after a domestication.

8 "Domesticating entity." The domestic entity that approves a
9 plan of domestication pursuant to section 373(a) (relating to
10 approval of domestication) or the foreign entity that approves a
11 domestication pursuant to section 373(b).

12 "Domestication." A transaction authorized by Subchapter G
13 (relating to domestication).

14 "Interest exchange." A transaction authorized by Subchapter
15 D (relating to interest exchange).

16 "Interest holder liability." Either of the following:

17 (1) Personal liability for a liability of an association
18 that is imposed on a person either:

19 (i) Solely by reason of the status of the person as
20 an interest holder.

21 (ii) By the organic rules of the association that
22 make one or more specified interest holders or categories
23 of interest holders liable in their capacity as interest
24 holders for all or specified liabilities of the entity.

25 (2) An obligation of an interest holder under the
26 organic rules of an association to contribute to the
27 association.

28 "Merger." A transaction in which two or more merging
29 associations are combined into a surviving association pursuant
30 to a document filed by the department or similar office in

1 another jurisdiction.

2 "Merging association." A domestic entity, domestic banking
3 institution or foreign association that is a party to a merger
4 under Subchapter C (relating to merger) and exists immediately
5 before the merger becomes effective.

6 "New association." An association that is created by a
7 division.

8 "Plan." A plan of merger, plan of interest exchange, plan of
9 conversion, plan of division or plan of domestication, as
10 applicable.

11 "Protected agreement." Either of the following:

12 (1) A record evidencing indebtedness and any related
13 agreement in effect on July 1, 2015.

14 (2) A protected governance agreement.

15 "Protected governance agreement." Either of the following:

16 (1) The organic rules of a domestic entity or foreign
17 association in effect on {the Legislative Reference Bureau
18 shall insert here on the effective date of this chapter}.

19 (2) An agreement that is binding on any of the governors
20 or interest holders of a domestic entity or foreign
21 association on July 1, 2015.

22 "Registered office." In the case of a domestic banking
23 institution that is a corporation, the principal place of
24 business of the corporation set forth in its articles of
25 incorporation as required by section 1004 of the act of November
26 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965.

27 "Resulting association." A dividing association, if it
28 survives the division, or a new association.

29 "Special treatment." A provision of a plan permitted by
30 section 329 (relating to special treatment of interest holders).

1 "Surviving association." The domestic entity, domestic
2 banking institution or foreign association that continues in
3 existence after or is created by a merger under Subchapter C
4 (relating to merger).

5 (b) Index of definitions.--Following is a nonexclusive list
6 of definitions in section 102 (relating to definitions) that
7 apply to this chapter:

8 "Act" or "action."

9 "Banking institution."

10 "Department."

11 "Dissenters rights."

12 "Domestic entity."

13 "Entity."

14 "Filing entity."

15 "Foreign entity."

16 "Governor."

17 "Interest."

18 "Interest holder."

19 "Obligation."

20 "Organic law."

21 "Organic rules."

22 "Private organic rules."

23 "Property."

24 "Public organic record."

25 "Record form."

26 "Registered foreign association."

27 "Representative."

28 "Sign."

29 "Transfer."

30 "Type."

1 § 313. Relationship of chapter to other provisions of law.

2 (a) Antitakeover provisions.--A transaction under this
3 chapter to which a registered corporation is a party may not
4 impair any right or obligation that a person has under, and may
5 not make applicable to the corporation, any provision of section
6 2538 (relating to approval of transactions with interested
7 shareholders) or Subchapters E (relating to control
8 transactions), F (relating to business combinations), G
9 (relating to control-share acquisitions), H (relating to
10 disgorgement by certain controlling shareholders following
11 attempts to acquire control), I (relating to severance
12 compensation for employees terminated following certain control-
13 share acquisitions) and J (relating to business combination
14 transactions-labor contracts) of Chapter 25, nor shall it change
15 the standard of care applicable to the directors under
16 Subchapter B of Chapter 17 (relating to fiduciary duty) unless:

17 (1) If the corporation does not survive the transaction,
18 the transaction satisfies any requirements of the provision.

19 (2) If the corporation survives the transaction, the
20 approval of the transaction is by a vote of the shareholders
21 or directors which would be sufficient to impair the right or
22 obligation under, or make the corporation subject to, the
23 provision.

24 (b) Transitional provision.--

25 (1) This subsection applies to a transaction of a type
26 authorized by this chapter if:

27 (i) prior to July 1, 2015, a step has been taken to
28 effectuate the transaction; but

29 (ii) the transaction does not take effect by July 1,
30 2015.

1 (2) Except as set forth in paragraph (3), the
2 transaction shall remain subject to the former provisions of
3 law supplied by this chapter until the transaction:

4 (i) is abandoned; or

5 (ii) takes effect.

6 (3) Notwithstanding paragraph (2), if the plan provides
7 that this chapter applies to the transaction, this chapter
8 shall apply to the transaction after June 30, 2015.

9 § 314. Regulatory conditions and required notices and
10 approvals.

11 (a) Regulatory approvals.--If law of this Commonwealth other
12 than this chapter requires notice to, or the approval of, a
13 governmental agency or officer of this Commonwealth in
14 connection with the participation under an organic law that is
15 not part of this title by a domestic or foreign association in a
16 transaction which is a form of transaction authorized by this
17 chapter, the notice must be given or the approval obtained by
18 the association before it may participate in any form of
19 transaction under this chapter.

20 (b) Certain regulated businesses.--A domestic converted
21 association, domestic domesticated entity, domestic new
22 association, domestic resulting association or domestic
23 surviving association may not acquire as a result of a
24 transaction under this chapter the power to engage in the
25 business of banking, insurance or acting as a trust company
26 unless an association of that type is authorized to have and
27 exercise that power under the law of this Commonwealth.

28 (c) Charitable assets.--Property held for a charitable
29 purpose under the law of this Commonwealth by a domestic or
30 foreign association immediately before a transaction under this

1 chapter becomes effective may not, as a result of the
2 transaction, be diverted from the objects for which it was
3 donated, granted, devised or otherwise transferred unless, to
4 the extent required by or pursuant to the law of this
5 Commonwealth concerning cy pres or other law dealing with
6 nondiversion of charitable assets, the domestic or foreign
7 association obtains an appropriate order of a court of competent
8 jurisdiction specifying the disposition of the property.

9 (d) Preservation of transfers.--A bequest, devise, gift,
10 grant or promise contained in a will or other instrument of
11 donation, subscription or conveyance that is made to a merging
12 association that is not the surviving association and that takes
13 effect or remains payable after the merger inures to the
14 surviving association. A trust obligation that would govern
15 property if transferred to a merging association that is not the
16 surviving association applies to property that is transferred to
17 the surviving association.

18 (e) Cross reference.--See section 318 (relating to excluded
19 entities and transactions).

20 § 315. Nature of transactions.

21 The fact that a sale or conversion of the interests in or
22 assets of an association or a transaction under a particular
23 subchapter produces a result that could be accomplished in any
24 other manner permitted by a different subchapter or other law
25 shall not be a basis for recharacterizing the sale, conversion
26 or transaction as a different form of sale, conversion or
27 transaction under any other subchapter or other law.

28 § 316. Contents of plan.

29 (a) Omission of certain provisions.--A plan as delivered to
30 the department for filing under any provision of this chapter in

1 lieu of a statement of merger, statement of interest exchange,
2 statement of conversion, statement of division or statement of
3 domestication may omit all provisions of the plan except
4 provisions, if any, that:

5 (1) are intended to amend or constitute the operative
6 provisions of the public organic record of a domestic
7 association as in effect subsequent to the effectiveness of
8 the plan;

9 (2) are required by this chapter in the statement in
10 lieu of which the plan is being delivered to the department
11 for filing; or

12 (3) allocate or specify the respective property and
13 liabilities of the resulting associations, in the case of a
14 plan of division.

15 (b) Availability of full plan.--If any of the provisions of
16 a plan are omitted from the plan as delivered to the department
17 as permitted under subsection (a), the plan must state that the
18 full text of the plan is on file at the principal office of the
19 surviving, acquiring, converted, new or resulting association or
20 domesticated entity and the address thereof. An association that
21 takes advantage of this section shall furnish a copy of the full
22 text of the plan, on request and without cost, to any interest
23 holder of any domestic or foreign association that was a party
24 to the plan.

25 (c) Reference to external facts.--A plan may refer to facts
26 ascertainable outside of the plan if the manner in which the
27 facts will operate on the plan is specified in the plan. The
28 facts may include the occurrence of an event or a determination
29 or action by a person, whether or not the event, determination
30 or action is within the control of a party to the transaction.

1 § 317. Contractual dissenters rights in entity transactions.

2 (a) General rule.--An interest holder of a domestic entity
3 other than a nonprofit corporation or unincorporated nonprofit
4 association shall be entitled to contractual dissenters rights
5 in connection with a transaction under this chapter, even though
6 the interest holder would not otherwise be entitled to
7 dissenters rights under this title to the extent provided:

8 (1) in the entity's organic rules; or

9 (2) in the plan.

10 (b) Procedures for contractual dissenters rights.--If an
11 interest holder is entitled to contractual dissenters rights
12 pursuant to subsection (a), Subchapter D of Chapter 15 (relating
13 to dissenters rights) applies to the extent practicable except
14 as otherwise provided in the organic rules of the domestic
15 entity or the plan.

16 (c) Cross references.--See sections 329 (relating to special
17 treatment of interest holders) and 1571(c) (relating to
18 application and effect of subchapter).

19 § 318. Excluded entities and transactions.

20 (a) Excluded entities.--The following entities may not
21 participate in a transaction under this chapter:

22 (1) A cooperative corporation subject to Chapter 73
23 (relating to electric cooperative corporations).

24 (2) A beneficial, benevolent, fraternal or fraternal
25 benefit society:

26 (i) having a lodge system and a representative form
27 of government; or

28 (ii) transacting any type of insurance.

29 (b) Excluded transactions involving certain nonprofit
30 corporations.--The following apply to nonprofit corporations:

1 (1) Except as provided in paragraph (2), this chapter
2 may not be used to accomplish a transaction that has the
3 effect of converting a domestic nonprofit corporation that is
4 subject to the supervision of the Department of Banking and
5 Securities, the Insurance Department or the Pennsylvania
6 Public Utility Commission to a different type of entity.

7 (2) Paragraph (1) does not apply to a transaction under
8 this chapter in which a health maintenance organization is
9 converted to a different type of entity if the transaction
10 has received the prior approval of the Insurance Department.

11 (c) Cross references.--See sections 103 (relating to
12 subordination of title to regulatory laws) and 314 (relating to
13 regulatory conditions and required notices and approvals).
14 § 319. Party to plan or transaction.

15 An association that approves a plan in its capacity as an
16 interest holder or creditor of a domestic or foreign association
17 that is a party to the transaction under the plan, or that
18 furnishes all or a part of the consideration contemplated by a
19 plan, does not thereby become a party to the plan or the
20 transaction under the plan for purposes of this chapter.

21 § 320. Submission of matters to interest holders.

22 (a) General rule.--A domestic association may agree, in
23 record form, to submit a plan to its interest holders whether or
24 not the governors determine, at any time after approving the
25 plan, that the plan is no longer advisable and recommend that
26 the interest holders reject or vote against it, regardless of
27 whether the governors change their recommendation. If an
28 association so agrees to submit a plan to its interest holders,
29 the plan is deemed to have been validly adopted by the
30 association when it has been approved by the interest holders.

1 (b) Cross references.--See sections 321(c) (relating to
2 approval by business corporation) and 325(c)(2) (relating to
3 approval by limited liability company).

4 SUBCHAPTER B

5 APPROVAL OF ENTITY TRANSACTIONS

6 Sec.

7 321. Approval by business corporation.

8 322. Approval by nonprofit corporation.

9 323. Approval by general partnership.

10 324. Approval by limited partnership.

11 325. Approval by limited liability company.

12 326. Approval by professional association.

13 327. Approval by business trust.

14 328. Approval by unincorporated nonprofit association.

15 329. Special treatment of interest holders.

16 330. Alternative means of approval of transactions.

17 § 321. Approval by business corporation.

18 (a) Proposal of plan.--Except where the approval of the
19 board of directors is unnecessary pursuant to section 330
20 (relating to alternative means of approval of transactions), a
21 plan shall be proposed in the case of a domestic business
22 corporation by the adoption by the board of directors of a
23 resolution approving the plan. Except where the approval of the
24 shareholders is unnecessary under this chapter, the board of
25 directors shall direct that the plan be submitted to a vote of
26 the shareholders entitled to vote thereon at a regular or
27 special meeting of the shareholders.

28 (b) Notice of meeting of shareholders.--Notice in record
29 form of the meeting of shareholders that will act on the
30 proposed plan must be given to each shareholder of record,

1 whether or not entitled to vote thereon, of each domestic
2 business corporation that is a party to the transaction under
3 the plan. There shall be included in or enclosed with the notice
4 a copy of the proposed plan or a summary thereof and any notice
5 required by section 329 (relating to special treatment of
6 interest holders). If the holders of shares of any class or
7 series of shares are entitled to assert dissenters rights, the
8 notice must include or be accompanied by the text of the
9 provision of this chapter granting dissenters rights and the
10 text of Chapter 15 Subch. D (relating to dissenters rights). The
11 notice must state that a copy of the organic rules of the
12 surviving, acquired, converted, new or resulting association or
13 domesticated entity as they will be in effect immediately
14 following the transaction will be furnished to any shareholder
15 of the corporation giving the notice on request and without
16 cost.

17 (c) Shareholder vote required.--Except as provided in
18 section 1757 (relating to action by shareholders) or subsection
19 (d), a plan shall be adopted by a domestic business corporation
20 that is a party to the transaction under the plan upon receiving
21 the affirmative vote of a majority of the votes cast by all
22 shareholders entitled to vote on the plan and, if any class or
23 series of shares is entitled to vote thereon as a class, the
24 affirmative vote of a majority of the votes cast in each class
25 vote. The holders of any class or series of shares of a domestic
26 business corporation that is a party to a transaction under a
27 plan that would effect any change in the articles of the
28 corporation shall be entitled to vote as a class on the plan if
29 they would have been entitled to a class vote under the
30 provisions of section 1914 (relating to adoption of amendments)

1 had the change been accomplished under Subchapter B of Chapter
2 19 (relating to amendment of articles). Except as provided in
3 section 330, a proposed plan shall not be deemed to have been
4 adopted by a domestic business corporation unless it has also
5 been approved by the board of directors, regardless of the fact
6 that the board has directed or suffered the submission of the
7 plan to the shareholders for action.

8 (d) Adoption of plan of merger without shareholder vote.--

9 (1) Unless otherwise required by the organic rules, a
10 plan of merger shall not require the approval of the
11 shareholders of a domestic business corporation that is a
12 merging association if:

13 (i) whether or not the corporation is the surviving
14 association:

15 (A) the surviving association is a domestic
16 business corporation and its articles are identical
17 to the articles of the corporation for which
18 shareholder approval is not required, except for
19 changes that could be made without shareholder
20 approval pursuant to section 1914(c);

21 (B) each share of the corporation outstanding
22 immediately prior to the effectiveness of the merger
23 is to continue as or be converted into, except as may
24 be otherwise agreed by the holder thereof, an
25 identical share of the surviving association; and

26 (C) the plan provides that the shareholders of
27 the corporation are to hold in the aggregate shares
28 of the surviving association to be outstanding
29 immediately after the effectiveness of the merger
30 entitled to cast at least a majority of the votes

1 entitled to be cast generally for the election of
2 directors;

3 (ii) immediately prior to the adoption of the plan
4 and at all times thereafter prior to the effectiveness of
5 the merger, another association owns directly or
6 indirectly 80% or more of the outstanding shares of each
7 class of the corporation; or

8 (iii) no shares of the corporation have been issued
9 prior to the adoption of the plan by the board of
10 directors pursuant to subsection (a).

11 (2) If a merger is effected pursuant to paragraph (1)(i)
12 or (iii), the plan shall be deemed adopted by the
13 corporation when it has been adopted by the board of
14 directors pursuant to subsection (a).

15 (3) If a merger of a subsidiary corporation is effected
16 pursuant to paragraph (1)(ii), the plan shall be deemed
17 adopted by the subsidiary corporation when it has been
18 adopted by the governors of the parent association and
19 neither approval of the plan by the board of directors of the
20 subsidiary corporation nor signing of the statement of merger
21 by the subsidiary corporation shall be necessary.

22 (4) Unless otherwise required by the organic rules, a
23 plan of merger providing for the merger of a domestic
24 business corporation (referred to in this paragraph as a
25 "constituent corporation") with or into a single indirect
26 wholly owned subsidiary (referred to in this paragraph as the
27 "subsidiary corporation") of the constituent corporation
28 shall not require the approval of the shareholders of either
29 the constituent corporation or the subsidiary corporation if
30 all of the following provisions are satisfied.

1 (i) A merger under this paragraph must satisfy the
2 following conditions:

3 (A) The constituent corporation and the
4 subsidiary corporation are the only parties to the
5 merger, other than a surviving association that is a
6 corporation created in the merger.

7 (B) Each share or fraction of a share of the
8 capital stock of the constituent corporation
9 outstanding immediately prior to the effectiveness of
10 the merger is converted in the merger into a share or
11 equal fraction of a share of capital stock of a
12 holding company having the same designations, rights,
13 powers and preferences and the qualifications,
14 limitations and restrictions as the share of capital
15 stock of the constituent corporation being converted
16 in the merger.

17 (C) The holding company and the surviving
18 association are each domestic business corporations.

19 (D) Immediately following the effectiveness of
20 the merger, the articles of incorporation and bylaws
21 of the holding company are identical to the articles
22 of incorporation and bylaws of the constituent
23 corporation immediately before the effectiveness of
24 the merger, except for changes that could be made
25 without shareholder approval pursuant to section
26 1914(c).

27 (E) Immediately following the effectiveness of
28 the merger, the surviving association is a direct or
29 indirect wholly owned subsidiary of the holding
30 company.

1 (F) The directors of the constituent corporation
2 become or remain the directors of the holding company
3 on the effectiveness of the merger.

4 (G) The board of directors of the constituent
5 corporation has made a good faith determination that
6 the shareholders of the constituent corporation will
7 not recognize gain or loss for United States Federal
8 income tax purposes.

9 (ii) If the holding company is a registered
10 corporation, the shares of the holding company issued in
11 connection with the merger shall be deemed to have been
12 acquired at the time that the shares of the constituent
13 corporation converted in the merger were acquired.

14 (iii) As used in this paragraph only, the term
15 "holding company" means a corporation that, from its
16 incorporation until consummation of the merger governed
17 by this paragraph, was at all times a direct wholly owned
18 subsidiary of the constituent corporation and whose
19 capital stock is issued in the merger.

20 (e) Approval of division by preferred shares.--If a dividing
21 association that is a business corporation has outstanding any
22 shares of a preferred or special class or series of shares,
23 regardless of a limitation stated in the articles or bylaws on
24 the voting rights of the class or series of shares, the holders
25 of outstanding shares of the class or series shall be entitled
26 to vote as a class on a plan of division which:

27 (1) provides that the dividing association will not
28 survive the division; or

29 (2) amends the articles or bylaws of the surviving
30 corporation in a manner that would entitle the holders of the

1 preferred or special shares to a class vote on the amendment
2 under the articles, the bylaws or section 1914(b).

3 (f) Cross references.--See:

4 Subchapter A of Chapter 17 (relating to notice and
5 meetings generally).

6 Section 2512 (relating to dissenters rights procedure).

7 Section 2539 (relating to adoption of plan of merger by
8 board of directors).

9 Section 3304(b) (relating to election of benefit
10 corporation status).

11 Section 3305(b) (relating to termination of benefit
12 corporation status).

13 § 322. Approval by nonprofit corporation.

14 (a) Proposal of plan.--A plan shall be proposed in the case
15 of a domestic nonprofit corporation as follows:

16 (1) by the adoption by the board of directors or other
17 body of a resolution approving the plan;

18 (2) unless otherwise provided in the articles, by
19 petition of members entitled to cast at least 10% of the
20 votes that all members are entitled to cast thereon, setting
21 forth the proposed plan, which petition shall be directed to
22 the board of directors and filed with the secretary of the
23 corporation; or

24 (3) by such other method as may be provided in the
25 bylaws.

26 (b) Submission to members.--Except where the domestic
27 nonprofit corporation has no members entitled to vote thereon,
28 the board of directors or other body shall direct that the plan
29 be submitted to a vote of the members entitled to vote thereon
30 at a regular or special meeting of the members.

1 (c) Notice of meeting of members.--Notice in record form of
2 the meeting of members that will act on the proposed plan shall
3 be given to each member of record, whether or not entitled to
4 vote thereon, of each domestic nonprofit corporation that is a
5 party to the transaction under the plan. A copy of the proposed
6 plan or a summary thereof shall be included in or enclosed with
7 the notice. The notice shall state that a copy of the organic
8 rules of the surviving, acquired, converted, new or resulting
9 association or domesticated entity as they will be in effect
10 immediately following the transaction will be furnished to any
11 member of the corporation giving the notice on request and
12 without cost.

13 (d) Member vote required.--Except as provided in section
14 5757 (relating to action by members), a plan shall be adopted
15 upon receiving the affirmative vote of at least a majority of
16 the votes that all members present are entitled to cast thereon
17 of each domestic nonprofit corporation that is a party to the
18 transaction under the plan. If any class of members is entitled
19 to vote on the plan as a class, the plan must be adopted by the
20 affirmative vote of at least a majority of the votes that all
21 members present of such class are entitled to cast thereon.

22 (e) Adoption in absence of voting members.--If a domestic
23 nonprofit corporation has no members entitled to vote thereon, a
24 plan shall be deemed adopted by the corporation when it has been
25 adopted by the board of directors or other body pursuant to
26 subsection (a).

27 (f) Cross references.--See Subchapter A of Chapter 57
28 (relating to notice and meetings generally) and section 3304(b)
29 (relating to election of benefit corporation status).
30 § 323. Approval by general partnership.

1 (a) General rule.--A plan shall be approved in the case of a
2 domestic general partnership as follows:

3 (1) in the manner provided in its organic rules for the
4 type of plan involved;

5 (2) if its organic rules do not provide for approval of
6 the type of plan involved, in the manner provided in its
7 organic rules for approval of a plan of merger; or

8 (3) if its organic rules do not provide for approval of
9 the type of plan involved or a plan of merger, the plan shall
10 be approved by all of the partners.

11 (b) Cross reference.--See section 3304(b) (relating to
12 election of benefit corporation status).

13 § 324. Approval by limited partnership.

14 (a) Proposal of plan.--A plan shall be proposed in the case
15 of a domestic limited partnership by the adoption by a unanimous
16 vote of the general partners of a resolution approving the plan.
17 Except where the approval of the limited partners is unnecessary
18 under this chapter or the organic rules, the general partners
19 shall submit the plan to a vote of the limited partners entitled
20 to vote thereon at a regular or special meeting of the limited
21 partners.

22 (b) Notice of meeting of limited partners.--Notwithstanding
23 any other provision of the organic rules, notice in record form
24 of the meeting of limited partners called for the purpose of
25 considering the proposed plan shall be given to each limited
26 partner, whether or not entitled to vote thereon, of each
27 domestic limited partnership that is a party to the transaction
28 under the plan. A copy of the proposed plan or a summary thereof
29 shall be included in or enclosed with the notice. The notice
30 shall state that a copy of the organic rules of the surviving,

1 acquired, converted, new or resulting association or
2 domesticated entity as they will be in effect immediately
3 following the transaction will be furnished to any limited
4 partner of the limited partnership giving the notice on request
5 and without cost.

6 (c) Required vote by limited partners.--The plan shall be
7 adopted upon receiving a majority of the votes cast by all
8 limited partners, if any, entitled to vote thereon of each
9 domestic limited partnership that is a party to the proposed
10 transaction under the plan and, if any class of limited partners
11 is entitled to vote thereon as a class, a majority of the votes
12 cast in each class vote. A proposed plan may not be deemed to
13 have been adopted by the limited partnership unless it has also
14 been approved by the general partners, regardless of the fact
15 that the general partners have directed or suffered the
16 submission of the plan to the limited partners for action.

17 (d) Merger by action of general partners only.--Except as
18 provided in the organic rules, a plan of merger shall not
19 require the approval of the limited partners of a domestic
20 limited partnership that is a merging association and shall be
21 deemed adopted by the limited partnership when it has been
22 adopted by the general partners pursuant to subsection (a) if:

23 (1) whether or not the limited partnership is the
24 surviving association, the surviving association is a
25 domestic limited partnership and its organic rules are
26 identical to the organic rules of the merging limited
27 partnership, except for changes that could be made without
28 action by the limited partners; and

29 (2) each partnership interest outstanding immediately
30 before the effectiveness of the merger is to continue as or

1 to be converted into, except as may be otherwise agreed by
2 the holder thereof, an identical partnership interest in the
3 surviving limited partnership after the effectiveness of the
4 merger.

5 (e) Cross reference.--See section 3304(b) (relating to
6 election of benefit corporation status).

7 § 325. Approval by limited liability company.

8 (a) Proposal of plan in manager-managed company.--Except as
9 provided in the organic rules or where the approval of the
10 managers is unnecessary under section 330 (relating to
11 alternative means of approval of transactions), a plan shall be
12 proposed, in the case of a manager-managed, domestic limited
13 liability company, by the adoption by the managers of a
14 resolution approving the plan. Except where the approval of the
15 members of a manager-managed, domestic limited liability company
16 is unnecessary under this chapter or the organic rules, the plan
17 shall be submitted to a vote of the members entitled to vote
18 thereon at a regular or special meeting of the members.

19 (b) Notice of meeting of members.--Except as provided in the
20 organic rules:

21 (1) Notice in record form of the meeting of members of a
22 domestic limited liability company that will act on the
23 proposed plan shall be given to each member of record,
24 whether or not entitled to vote thereon, of each domestic
25 limited liability company that is a party to the transaction
26 under the plan.

27 (2) There shall be included in or enclosed with the
28 notice a copy of the proposed plan or a summary thereof.

29 (3) The notice shall state that a copy of the organic
30 rules of the surviving, acquired, converted, new or resulting

1 association or domesticated entity as they will be in effect
2 immediately following the transaction will be furnished to
3 any member of the company giving the notice on request and
4 without cost.

5 (c) Adoption of plan by members.--A plan:

6 (1) Except as provided in the organic rules, shall be
7 adopted upon receiving a majority of the votes cast by all
8 members, if any, entitled to vote thereon of each of the
9 domestic limited liability companies that is a party to the
10 transaction under the plan and, if any class of members is
11 entitled to vote thereon as a class, a majority of the votes
12 cast in each class vote.

13 (2) Except as provided in the organic rules or section
14 330, shall not be deemed to have been adopted by a manager-
15 managed company unless it has also been approved by the
16 managers, regardless of the fact that the managers have
17 directed or suffered the submission of the plan to the
18 members for action.

19 (d) Merger by action of managers only.--Unless otherwise
20 required by a provision of the organic rules in record form, a
21 plan of merger shall not require the approval of the members of
22 a manager-managed, domestic limited liability company and shall
23 be deemed adopted by the company when a resolution approving the
24 plan has been adopted by the managers pursuant to subsection (a)
25 if:

26 (1) Whether the company is the surviving association:

27 (i) the surviving association is a domestic limited
28 liability company and its organic rules are identical to
29 the organic rules of the limited liability company that
30 is party to the merger, except for changes that could be

1 made without action by the members; and

2 (ii) each membership interest outstanding
3 immediately prior to the effectiveness of the merger is
4 to continue as or to be converted into, except as may be
5 otherwise agreed by the holder thereof, an identical
6 membership interest in the surviving association after
7 the effectiveness of the merger.

8 (2) The plan of merger provides for the merger of the
9 company, referred to in this paragraph as the "constituent
10 company," with or into a single indirect wholly owned
11 subsidiary, referred to in this paragraph as the "subsidiary
12 company," of the constituent company if all of the following
13 provisions are satisfied:

14 (i) The constituent company and the subsidiary
15 company are the only parties to the merger, other than a
16 surviving association that is created in the merger.

17 (ii) Each interest of the constituent company
18 outstanding immediately prior to the effectiveness of the
19 merger is converted in the merger into an interest of a
20 holding company having the same designations, rights,
21 powers and preferences and the qualifications,
22 limitations and restrictions as the interest of the
23 constituent company being converted in the merger.

24 (iii) The holding company and the surviving
25 association are each domestic limited liability
26 companies.

27 (iv) Immediately following the effectiveness of the
28 merger, the certificate of organization and operating
29 agreement of the holding company are identical to the
30 certificate of organization and operating agreement of

1 the constituent company immediately before the
2 effectiveness of the merger, except for changes that
3 could be made without member approval pursuant to Chapter
4 89 (relating to limited liability companies).

5 (v) Immediately following the effectiveness of the
6 merger, the surviving association is a direct or indirect
7 wholly owned subsidiary of the holding company.

8 (vi) The managers of the constituent company become
9 or remain the managers of the holding company on the
10 effectiveness of the merger.

11 (vii) The managers of the constituent company have
12 made a good faith determination that the members of the
13 constituent company will not recognize gain or loss for
14 United States Federal income tax purposes.

15 (viii) As used in this paragraph only, the term
16 "holding company" means a limited liability company that,
17 from its formation until consummation of the merger
18 governed by this paragraph, was at all times a direct
19 wholly owned subsidiary of the constituent company and
20 interests in which are issued in the merger.

21 (e) Cross reference.--See section 3304(b) (relating to
22 election of benefit corporation status).

23 § 326. Approval by professional association.

24 (a) General rule.--A plan shall be approved in the case of a
25 domestic professional association by vote of a majority, or such
26 higher percentage as may be provided in the organic rules, of
27 the associates, voting according to their proportionate shares
28 of ownership.

29 (b) Cross reference.--See section 3304(b) (relating to
30 election of benefit corporation status).

1 § 327. Approval by business trust.

2 (a) General rule.--Except as provided in subsection (b), a
3 plan shall be approved in the case of a domestic business trust
4 as follows:

5 (1) in the manner provided in its organic rules for the
6 type of plan involved;

7 (2) if its organic rules do not provide for approval of
8 the type of plan involved, in the manner provided in its
9 organic rules for approval of a plan of merger; or

10 (3) if its organic rules do not provide for approval of
11 the type of plan involved or a plan of merger, the plan
12 shall be approved by all of the beneficial owners.

13 (b) Adoption of plan of merger without beneficiary vote.--
14 Unless otherwise required by the organic rules, a plan of merger
15 providing for the merger of a domestic business trust, referred
16 to in this paragraph as the "constituent trust," with or into a
17 single indirect wholly owned subsidiary, referred to in this
18 paragraph as the "subsidiary trust," of the constituent trust
19 shall not require the approval of the beneficiaries of the
20 constituent trust if all of the following provisions are
21 satisfied:

22 (1) The constituent trust and the subsidiary trust are
23 the only parties to the merger, other than a surviving
24 association created in the merger.

25 (2) Each interest in the constituent trust outstanding
26 immediately prior to the effectiveness of the merger is
27 converted in the merger into an interest in the holding trust
28 having the same designations, rights, powers and preferences
29 and the qualifications, limitations and restrictions as the
30 interests in the constituent trust being converted in the

1 merger.

2 (3) The holding trust and the surviving association are
3 each domestic business trusts.

4 (4) Immediately following the effectiveness of the
5 merger, the instrument and organic rules of the holding trust
6 are identical to the instrument and organic rules of the
7 constituent trust immediately before the effectiveness of the
8 merger, except for changes that could be made without
9 beneficiary approval under Chapter 95 (relating to business
10 trusts).

11 (5) Immediately following the effectiveness of the
12 merger, the surviving association is a direct or indirect
13 wholly owned subsidiary of the holding trust.

14 (6) The trustees of the constituent trust become or
15 remain the trustees of the holding trust on the effectiveness
16 of the merger.

17 (7) The trustees of the constituent trust have made a
18 good faith determination that the beneficiaries of the
19 constituent trust will not recognize gain or loss for United
20 States Federal income tax purposes.

21 (8) As used in this subsection only, the term "holding
22 trust" means a business trust that, from its formation until
23 consummation of the merger governed by this subsection, was
24 at all times a direct wholly owned subsidiary of the
25 constituent trust and the interests in which are issued in
26 the merger.

27 (c) Cross reference.--See section 3304(b) (relating to
28 election of benefit corporation status).

29 § 328. Approval by unincorporated nonprofit association.

30 (a) General rule.--Except as provided in the governing

1 principles, a plan shall be approved in the case of a domestic
2 unincorporated nonprofit association by the affirmative vote of
3 at least a majority of the votes cast at a meeting of the
4 members.

5 (b) Cross reference.--See section 3304(b) (relating to
6 election of benefit corporation status).

7 § 329. Special treatment of interest holders.

8 (a) General rule.--Except as otherwise restricted in the
9 organic rules, a plan may contain a provision classifying the
10 interest holders of a class or series of interests into one or
11 more separate groups by reference to any facts or circumstances
12 that are not manifestly unreasonable and providing mandatory
13 treatment for interests of the class or series held by
14 particular interest holders or groups of interest holders that
15 differs materially from the treatment accorded other interest
16 holders or groups of interest holders that hold interests of the
17 same class or series, including a provision modifying or
18 rescinding rights previously created under this section if
19 either of the following applies:

20 (1) The plan:

21 (i) is approved by a majority of the votes cast by
22 the holders of any class or series of interests any of
23 the interests of which are so classified into groups,
24 whether or not such class or series would otherwise be
25 entitled to vote on the plan; and

26 (ii) specifically enumerates the type and extent of
27 the special treatment authorized.

28 (2) Under all the facts and circumstances, a court of
29 competent jurisdiction finds such special treatment is
30 undertaken in good faith, after reasonable deliberation and

1 is in the best interest of the association.

2 (b) Statutory voting rights on special treatment.--Except as
3 provided in subsection (d), if a plan contains a provision for
4 special treatment, each group of holders of any outstanding
5 interests of a class or series who are to receive the same
6 special treatment under the plan shall be entitled to vote as a
7 special class in respect to the plan regardless of any
8 limitations stated in the organic rules on the voting rights of
9 any class or series.

10 (c) Determination of groups.--For purposes of applying
11 subsections (a)(1) and (b), the determination of which interest
12 holders are part of each group receiving special treatment shall
13 be made as of the record date for interest holder action on the
14 plan.

15 (d) Dissenters rights on special treatment.--If a plan
16 contains a provision for special treatment without requiring for
17 the adoption of the plan the statutory class vote required under
18 subsection (b), the holder of any outstanding interests the
19 statutory class voting rights of which are so denied shall be
20 entitled to assert dissenters rights with respect to those
21 interests. A shareholder of a business corporation who wishes to
22 assert dissenters rights shall comply with Subchapter D of
23 Chapter 15 (relating to dissenters rights). An interest holder
24 in any other type of domestic entity shall comply with
25 Subchapter D of Chapter 15 to the extent practicable.

26 (e) Notice to interest holders.--Any notice to interest
27 holders of a meeting called to act on a plan that provides for
28 special treatment shall state that the plan provides for special
29 treatment. The notice shall identify the interest holders
30 receiving special treatment unless the notice is accompanied by

1 either a summary of the plan that includes that information or
2 the full text of the plan.

3 (f) Exceptions.--This section shall not apply to any of the
4 following:

5 (1) A provision of a plan that offers to all holders of
6 interests of a class or series the same option to elect
7 certain treatment.

8 (2) A plan involving any type of domestic entity that
9 contains an express provision that this section does not
10 apply or that fails to contain an express provision that this
11 section shall apply.

12 (3) A provision of a plan that treats all of the holders
13 of a particular class or series of interests of any type of
14 domestic entity differently from the holders of another class
15 or series. A provision of a plan that treats the holders of a
16 class or series of shares of a domestic business corporation
17 differently from the holders of another class or series of
18 shares shall not constitute a violation of section 1521(d)
19 (relating to authorized shares).

20 § 330. Alternative means of approval of transactions.

21 (a) General rule.--Except as provided in subsection (b) or
22 the organic rules of a domestic entity, approval of a
23 transaction under this chapter by the unanimous vote or consent
24 of its interest holders satisfies the requirements of this
25 chapter for approval of the transaction.

26 (b) Exception.--Subsection (a) shall not apply to a
27 nonprofit corporation.

28 SUBCHAPTER C

29 MERGER

30 Sec.

1 331. Merger authorized.

2 332. Plan of merger.

3 333. Approval of merger.

4 334. Amendment or abandonment of plan of merger.

5 335. Statement of merger; effectiveness.

6 336. Effect of merger.

7 § 331. Merger authorized.

8 (a) General rule.--Except as provided in section 318
9 (relating to excluded entities and transactions) or this
10 section, by complying with this chapter:

11 (1) One or more domestic entities may merge with one or
12 more domestic entities or foreign associations into a
13 surviving association.

14 (2) Two or more foreign associations may merge into a
15 surviving association that is a domestic entity.

16 (3) A domestic banking institution may be a merging
17 association or surviving association in a merger with one or
18 more domestic or foreign associations if the surviving
19 association or at least one of the merging associations is a
20 domestic entity.

21 (b) Foreign law authorization required.--By complying with
22 the applicable provisions of this subchapter, a foreign
23 association may be a party to a merger under this subchapter or
24 may be the surviving association in such a merger if the merger
25 is authorized by the law of the jurisdiction of formation of the
26 foreign association.

27 (c) Banking institutions.--Subsection (a)(3) controls over
28 any inconsistent provision of the organic law of a domestic
29 banking institution that is a merging association.

30 (d) Exception.--A health maintenance organization may be a

1 merging association only if the surviving association is a
2 health maintenance organization.

3 (e) Cross reference.--See section 314 (relating to
4 regulatory conditions and required notices and approvals).
5 § 332. Plan of merger.

6 (a) General rule.--A domestic entity may become a party to a
7 merger by approving a plan of merger. The plan shall be in
8 record form and contain all of the following:

9 (1) As to each merging association, its name,
10 jurisdiction of formation and type.

11 (2) If the surviving association is to be created in the
12 merger, a statement to that effect and the association's
13 name, jurisdiction of formation and type.

14 (3) The manner, if any, of:

15 (i) converting some or all of the interests in a
16 merging association into interests, securities,
17 obligations, money, other property, rights to acquire
18 interests or securities, or any combination of the
19 foregoing; or

20 (ii) canceling some or all of the interests in a
21 merging association.

22 (4) If the surviving association exists before the
23 merger, any proposed amendments to:

24 (i) its public organic record, if any; or

25 (ii) its private organic rules that are or are
26 proposed to be in record form.

27 (5) If the surviving association is to be created in the
28 merger:

29 (i) its proposed public organic record, if any; and

30 (ii) the full text of its private organic rules that

1 are proposed to be in record form.

2 (6) Provisions, if any, providing special treatment of
3 interests in a merging association held by any interest
4 holder or group of interest holders as authorized by, and
5 subject to, section 329 (relating to special treatment of
6 interest holders).

7 (7) The other terms and conditions of the merger.

8 (8) Any other provision required by:

9 (i) the law of this Commonwealth;

10 (ii) the law of the jurisdiction of formation of a
11 foreign merging or surviving association; or

12 (iii) the organic rules of a merging association.

13 (b) Optional contents.--In addition to the requirements of
14 subsection (a), a plan of merger may contain any other provision
15 not prohibited by law.

16 (c) Cross reference.--See section 316 (relating to contents
17 of plan).

18 § 333. Approval of merger.

19 (a) Approval by domestic entities.--A plan of merger shall
20 not be effective unless it has been approved in both of the
21 following ways:

22 (1) The plan is approved by a domestic entity that is a
23 merging association in accordance with the applicable
24 provisions of Subchapter B (relating to approval of entity
25 transactions).

26 (2) The plan is approved in record form by each interest
27 holder, if any, of a domestic entity that is a merging
28 association that will have interest holder liability for
29 debts, obligations and other liabilities that arise after the
30 merger becomes effective, unless, as to an interest holder

1 that does not approve the plan, both of the following apply:

2 (i) The organic rules of the domestic entity provide
3 in record form for the approval of a merger in which some
4 or all of its interest holders become subject to interest
5 holder liability by the vote or consent of fewer than all
6 the interest holders.

7 (ii) The interest holder consented in record form to
8 or voted for that provision of the organic rules or
9 became an interest holder after the adoption of that
10 provision.

11 (b) Approval by foreign associations.--A merger under this
12 subchapter in which a foreign association is a merging
13 association is not effective unless the merger is approved by
14 the foreign association in accordance with the law of its
15 jurisdiction of formation.

16 (c) Approval by domestic banking institutions.--A merger
17 under this subchapter in which a domestic banking institution
18 that is not a domestic entity is a merging association is not
19 effective unless the merger is approved by the domestic banking
20 institution in accordance with the requirements in its organic
21 law and organic rules for approval of a merger.

22 (d) Dissenters rights.--

23 (1) Except as provided in paragraph (2), if a
24 shareholder of a domestic business corporation that is to be
25 a merging association objects to the plan of merger and
26 complies with Subchapter D of Chapter 15 (relating to
27 dissenters rights), the shareholder shall be entitled to
28 dissenters rights to the extent provided in that subchapter.

29 (2) Except as provided under section 317 (relating to
30 contractual dissenters rights in entity transactions),

1 dissenters rights shall not be available to shareholders of a
2 domestic business corporation that is a merging association
3 in a merger described in section 321(d)(1)(i) or (4)
4 (relating to approval by business corporation).

5 (3) If a shareholder of a domestic banking institution
6 that is to be a merging association objects to the plan of
7 merger and complies with section 1222 of the act of November
8 30, 1965 (P.L.847, No.356), known as the Banking Code of
9 1965, the shareholder shall be entitled to the rights
10 provided in that section.

11 (4) See section 329 (relating to special treatment of
12 interest holders).

13 § 334. Amendment or abandonment of plan of merger.

14 (a) General rule.--A plan of merger may be amended or
15 abandoned only with the consent of each party to the plan,
16 except as otherwise provided in the plan.

17 (b) Approval of amendment.--A domestic entity that is a
18 merging association may approve an amendment of a plan of merger
19 in one of the following ways:

20 (1) In the same manner as the plan was approved, if the
21 plan does not provide for the manner in which it may be
22 amended.

23 (2) By its governors or interest holders in the manner
24 provided in the plan, but an interest holder that was
25 entitled to vote on or consent to approval of the plan is
26 entitled to vote on or consent to any amendment of the plan
27 that will change any of the following:

28 (i) The amount or kind of interests, securities,
29 obligations, money, other property, rights to acquire
30 interests or securities, or any combination of the

1 foregoing, to be received by the interest holders of any
2 party to the plan.

3 (ii) The public organic record, if any, or private
4 organic rules of the surviving association that will be
5 in effect immediately after the merger becomes effective,
6 except for changes that do not require approval of the
7 interest holders of the surviving association under its
8 organic law or organic rules.

9 (iii) Any other terms or conditions of the plan, if
10 the change would:

11 (A) increase the interest holder liability to
12 which the interest holder will be subject; or

13 (B) otherwise adversely affect the interest
14 holder in any material respect.

15 (c) Approval of abandonment.--After a plan of merger has
16 been approved by a domestic entity that is a merging association
17 and before a statement of merger becomes effective, the plan may
18 be abandoned as provided in the plan. Unless prohibited by the
19 plan, a domestic entity that is a merging association may
20 abandon the plan in the same manner as the plan was approved.

21 (d) Statement of abandonment.--If a plan of merger is
22 abandoned after a statement of merger has been delivered to the
23 department for filing and before the statement becomes
24 effective, a statement of abandonment UNDER SECTION 141 <--
25 (RELATING TO ABANDONMENT OF FILING BEFORE EFFECTIVENESS), signed
26 by a party to the plan, must be delivered to the department for
27 filing before the statement of merger becomes effective. The <--
28 statement of abandonment shall take effect on filing, and the
29 merger shall be abandoned and shall not become effective. The
30 statement of abandonment shall contain all of the following:

1 ~~(1) The name of each party to the plan of merger.~~

2 ~~(2) The date on which the statement of merger was filed~~
3 ~~by the department.~~

4 ~~(3) A statement that the merger has been abandoned in~~
5 ~~accordance with this section.~~

6 ~~(c) Cross references. See sections 134 (relating to~~
7 ~~docketing statement) and 135 (relating to requirements to be met~~
8 ~~by filed documents).~~

9 § 335. Statement of merger; effectiveness.

10 (a) General rule.--A statement of merger shall be signed by
11 each merging association and delivered to the department for
12 filing along with the certificates, if any, required by section
13 139 (relating to tax clearance of certain fundamental
14 transactions).

15 (b) Contents.--A statement of merger shall contain all of
16 the following:

17 (1) With respect to each merging association that is not
18 the surviving association:

19 (i) its name;

20 (ii) its jurisdiction of formation;

21 (iii) its type;

22 (iv) if it is a domestic filing association,
23 domestic limited liability partnership or registered
24 foreign association, the address of its registered
25 office, including street and number, if any, in this
26 Commonwealth, subject to section 109 (relating to name of
27 commercial registered office provider in lieu of
28 registered address);

29 (v) if it is a domestic association that is not a
30 domestic filing association or limited liability

1 partnership, the address, including street and number, if
2 any, of its principal office; and
3 (vi) if it is a nonregistered foreign association,
4 the address, including street and number, if any, of:
5 (A) its registered or similar office, if any,
6 required to be maintained by the law of its
7 jurisdiction of formation; or
8 (B) if it is not required to maintain a
9 registered or similar office, its principal office.
10 (2) With respect to the surviving association:
11 (i) its name;
12 (ii) its jurisdiction of formation;
13 (iii) its type;
14 (iv) if it is a domestic filing association,
15 domestic limited liability partnership or registered
16 foreign association, the address of its registered
17 office, including street and number, if any, in this
18 Commonwealth, subject to section 109;
19 (v) if it is a domestic association that is not a
20 domestic filing association or limited liability
21 partnership, the address, including street and number, if
22 any, of its principal office; and
23 (vi) if it is a nonregistered foreign association,
24 the address, including street and number, if any, of:
25 (A) its registered or similar office, if any,
26 required to be maintained by the law of its
27 jurisdiction of formation; or
28 (B) if it is not required to maintain a
29 registered or similar office, its principal office.
30 (3) If the statement of merger is not to be effective on

1 filing, the later date or date and time on which it will
2 become effective.

3 (4) A statement that the merger was approved in the
4 following ways as applicable:

5 (i) By a domestic entity that is a merging
6 association, in accordance with this chapter.

7 (ii) By a foreign merging association, in accordance
8 with the law of its jurisdiction of formation.

9 (iii) By a domestic merging association that is not
10 a domestic entity, in the same manner required by its
11 organic law for approving a merger that requires the
12 approval of its interest holders.

13 (5) If the surviving association exists before the
14 merger and is a domestic filing entity, any amendment to its
15 public organic record approved as part of the plan of merger.

16 (6) If the surviving association is created by the
17 merger and is a domestic filing entity, its public organic
18 record, as an attachment. The public organic record does not
19 need to state the name or address of an incorporator of a
20 corporation, organizer of a limited liability company or
21 similar person with respect to any other type of entity.

22 (7) If the surviving association is created by the
23 merger and is a nonregistered foreign association, one of the
24 following:

25 (i) The street and mailing addresses of its
26 registered agent and registered office in its
27 jurisdiction of formation if it is a filing entity.

28 (ii) The street and mailing address of its principal
29 office if it is not a filing entity.

30 (8) If the surviving association is created by the

1 merger and is a domestic limited liability partnership or a
2 domestic limited liability limited partnership that is not
3 using the alternative procedure in section 8201(f) (relating
4 to scope), its statement of registration, as an attachment.

5 (9) If the surviving association is created by the
6 merger and is a domestic electing partnership, its statement
7 of election.

8 (c) Other provisions.--In addition to the requirements of
9 subsection (b), a statement of merger may contain any other
10 provision not prohibited by law.

11 (d) Domestic surviving association.--If the surviving
12 association is a domestic entity, its public organic record, if
13 any, shall satisfy the requirements of the law of this
14 Commonwealth, except that the public organic record does not
15 need to be signed and may omit any provision that is not
16 required to be included in a restatement of the public organic
17 record.

18 (e) Filing of plan.--A plan of merger that is signed by all
19 of the merging associations and meets all of the requirements of
20 subsection (b) may be delivered to the department for filing
21 instead of a statement of merger and on filing has the same
22 effect. If a plan of merger is filed as provided in this
23 subsection, references in this chapter to a statement of merger
24 refer to the plan of merger filed under this subsection.

25 (f) Effectiveness of statement of merger.--A statement of
26 merger is effective as provided in section 136(c) (relating to
27 processing of documents by Department of State).

28 (g) Effectiveness of merger.--If the surviving association
29 is a domestic association, the merger is effective when the
30 statement of merger is effective. If the surviving association

1 is a foreign association, the merger is effective on the later
2 of:

3 (1) the date and time provided by the organic law of the
4 surviving association; or

5 (2) when the statement of merger is effective.

6 (h) Cross references.--See sections 134 (relating to
7 docketing statement), 135 (relating to requirements to be met by
8 filed documents) and 316 (relating to contents of plan).

9 § 336. Effect of merger.

10 (a) General rule.--When a merger under this subchapter
11 becomes effective, all of the following apply:

12 (1) The surviving association continues or comes into
13 existence.

14 (2) Each merging association that is not the surviving
15 association ceases to exist.

16 (3) All property of each merging association vests in
17 the surviving association without reversion or impairment,
18 and the merger shall not constitute a transfer of any of that
19 property.

20 (4) All debts, obligations and other liabilities of each
21 merging association are debts, obligations and other
22 liabilities of the surviving association.

23 (5) Except as otherwise provided by law ~~or the plan of~~ <--
24 ~~merger~~, all the rights, privileges, immunities, AND powers <--
25 ~~and purposes~~ of each merging association vest in the <--
26 surviving association.

27 (6) If the surviving association exists before the
28 merger, all of the following apply:

29 (i) All of its property continues to be vested in it
30 without transfer, reversion or impairment.

1 (ii) It remains subject to all its debts,
2 obligations and other liabilities.

3 (iii) All its rights, privileges, immunities, AND <--
4 powers and purposes continue to be vested WITHOUT CHANGE <--
5 in it.

6 (iv) Its public organic record, if any, is amended
7 to the extent provided in the statement of merger.

8 (v) Its private organic rules that are to be in
9 record form, if any, are amended to the extent provided
10 in the plan of merger.

11 ~~(7) The name of the surviving association may be~~ <--
12 ~~substituted for the name of any merging association that is a~~
13 ~~party to any pending action or proceeding.~~

14 (7) LIENS ON THE PROPERTY OF THE MERGING ASSOCIATION <--
15 SHALL NOT BE IMPAIRED BY THE MERGER.

16 (8) A CLAIM EXISTING OR AN ACTION OR A PROCEEDING
17 PENDING BY OR AGAINST ANY OF THE MERGING ASSOCIATIONS MAY BE
18 PROSECUTED TO JUDGMENT AS IF THE MERGER HAD NOT TAKEN PLACE,
19 OR THE SURVIVING ASSOCIATION MAY BE PROCEEDED AGAINST OR
20 SUBSTITUTED IN PLACE OF THE APPROPRIATE MERGING ASSOCIATION.

21 ~~(8)~~ (9) If the surviving association is created by the <--
22 merger, its private organic rules are effective and the
23 following apply:

24 (i) If it is a filing entity, its public organic
25 record is effective.

26 (ii) If it is a limited liability partnership or a
27 limited liability limited partnership that is not using
28 the alternative procedure under section 8201(f) (relating
29 to scope), its statement of registration is effective.

30 (iii) If it is an electing partnership, its

1 statement of election is effective.

2 ~~(9)~~ (10) The interests in each merging association that <--
3 are to be converted or canceled as provided in the plan of
4 merger are converted or canceled, and the interest holders of
5 those interests are entitled only to the rights provided to
6 them under the plan and to any dissenters rights they have
7 pursuant to section 317 (relating to contractual dissenters
8 rights in entity transactions) or 333(d) (relating to
9 approval of merger).

10 (b) No dissolution rights.--Except as provided in the
11 organic law or organic rules of a merging association, a merger
12 under this subchapter does not give rise to any rights that an
13 interest holder, governor or third party would have on a
14 dissolution, liquidation or winding up of the merging
15 association.

16 (c) New interest holder liability.--When a merger under this
17 subchapter becomes effective, a person that becomes subject to
18 interest holder liability with respect to an association as a
19 result of the merger has interest holder liability only to the
20 extent provided by the organic law of that association and only
21 for those debts, obligations and other liabilities that arise
22 after the merger becomes effective.

23 (d) Prior interest holder liability.--When a merger under
24 this subchapter becomes effective, the interest holder liability
25 of a person that ceases to hold an interest in a domestic entity
26 that is a merging association with respect to which the person
27 had interest holder liability shall be as follows:

28 (1) The merger does not discharge any interest holder
29 liability under the organic law of the domestic entity to the
30 extent the interest holder liability arose before the merger

1 became effective.

2 (2) The person does not have interest holder liability
3 under the organic law of the domestic entity for any debt,
4 obligation or other liability that arises after the merger
5 becomes effective.

6 (3) The organic law of the domestic entity continues to
7 apply to the release, collection or discharge of any interest
8 holder liability preserved under paragraph (1) as if the
9 merger had not occurred.

10 (4) The person has whatever rights of contribution from
11 any other person as are provided by law other than this
12 chapter or the organic rules of the domestic entity with
13 respect to any interest holder liability preserved under
14 paragraph (1) as if the merger had not occurred.

15 (e) Foreign surviving association.--When a merger under this
16 subchapter becomes effective, a foreign association that is the
17 surviving association may be served with process in this
18 Commonwealth for the collection and enforcement of any debts,
19 obligations or other liabilities of a domestic entity that is a
20 merging association in accordance with applicable law.

21 (f) Registration of foreign association.--When a merger
22 under this subchapter becomes effective, the registration to do
23 business in this Commonwealth of a registered foreign
24 association that is a merging association and is not the
25 surviving association is canceled.

26 (g) Taxes.--Any taxes, interest, penalties and public
27 accounts of the Commonwealth claimed against any of the merging
28 associations that are settled, assessed or determined prior to
29 or after the merger shall be the liability of the surviving
30 association AND, TOGETHER WITH INTEREST THEREON, SHALL BE A LIEN <--

1 AGAINST THE FRANCHISES AND PROPERTY OF THE SURVIVING
2 ASSOCIATION.

3 SUBCHAPTER D

4 INTEREST EXCHANGE

5 Sec.

6 341. Interest exchange authorized.

7 342. Plan of interest exchange.

8 343. Approval of interest exchange.

9 344. Amendment or abandonment of plan of interest exchange.

10 345. Statement of interest exchange; effectiveness.

11 346. Effect of interest exchange.

12 § 341. Interest exchange authorized.

13 (a) General rule.--Except as provided in section 318
14 (relating to excluded entities and transactions) or this
15 section, by complying with this subchapter:

16 (1) A domestic or foreign association may acquire all of
17 one or more classes or series of interests of a domestic
18 entity in exchange for interests, securities, obligations,
19 money, other property, rights to acquire interests or
20 securities or any combination of the foregoing.

21 (2) A domestic entity may acquire all of one or more
22 classes or series of interests of a foreign association in
23 exchange for interests, securities, obligations, money, other
24 property, rights to acquire interests or securities or any
25 combination of the foregoing.

26 (b) Foreign associations.--By complying with the applicable
27 provisions of this subchapter:

28 (1) A foreign association may be the acquiring
29 association in an interest exchange under this subchapter
30 regardless of whether the law of its jurisdiction of

1 formation authorizes an interest exchange.

2 (2) A foreign association may be the acquired
3 association in an interest exchange under this subchapter
4 only if the interest exchange is authorized by the law of its
5 jurisdiction of formation.

6 (c) Protected agreements.--If a protected agreement of a
7 domestic entity other than a business corporation contains a
8 provision that applies to a merger of the entity but does not
9 refer to an interest exchange, the provision shall apply to an
10 interest exchange in which the domestic entity is the acquired
11 association as if the interest exchange were a merger until the
12 provision is amended after July 1, 2015.

13 (d) Excluded entities.--The following domestic entities
14 shall not be the acquired association in an interest exchange:

15 (1) a health maintenance organization;

16 (2) a hospital plan corporation; or

17 (3) a professional health service organization.

18 (e) Transitional provision.--A reference to a share exchange
19 in a provision of the organic rules of a domestic business
20 corporation which took effect before July 1, 2015, shall be
21 deemed to include an interest exchange.

22 (f) Cross reference.--See section 314 (relating to
23 regulatory conditions and required notices and approvals).

24 § 342. Plan of interest exchange.

25 (a) General rule.--A domestic entity may be the acquired
26 association in an interest exchange under this chapter by
27 approving a plan of interest exchange. The plan shall be in
28 record form and contain all of the following:

29 (1) The name and type of the acquired association.

30 (2) The name, jurisdiction of formation and type of the

1 acquiring association.

2 (3) The manner of:

3 (i) exchanging the interests in the acquired
4 association to be acquired in the interest exchange into
5 interests, securities, obligations, money, other
6 property, rights to acquire interests or securities, or
7 any combination of the foregoing; and

8 (ii) canceling, if desired, some or all other
9 interests in the acquired association.

10 (4) Any proposed amendments to:

11 (i) the public organic record, if any, of the
12 acquired association; and

13 (ii) the private organic rules of the acquired
14 association that are or are proposed to be in record
15 form.

16 (5) Provisions, if any, providing special treatment of
17 interests in the acquired association held by any interest
18 holder or group of interest holders as authorized by, and
19 subject to, section 329 (relating to special treatment of
20 interest holders).

21 (6) The other terms and conditions of the interest
22 exchange.

23 (7) Any other provision required by:

24 (i) the law of this Commonwealth; or

25 (ii) the organic rules of the acquired association.

26 (b) Optional contents.--In addition to the requirements of
27 subsection (a), a plan of interest exchange may contain any
28 other provision not prohibited by law.

29 (c) Cross reference.--See section 316(c) (relating to
30 contents of plan).

1 § 343. Approval of interest exchange.

2 (a) Approval by domestic entities.--A plan of interest
3 exchange in which the acquired association is a domestic entity
4 shall not be effective unless it has been approved in the
5 following ways:

6 (1) By the acquired domestic entity in accordance with
7 the applicable provisions of Subchapter B (relating to
8 approval of entity transactions).

9 (2) In record form, by each interest holder of the
10 acquired domestic entity that will have interest holder
11 liability for debts, obligations and other liabilities that
12 arise after the interest exchange becomes effective, unless,
13 as to an interest holder that does not approve the plan, both
14 of the following apply:

15 (i) The organic rules of the entity provide in
16 record form for the approval of an interest exchange or a
17 merger in which some or all of its interest holders
18 become subject to interest holder liability by the vote
19 or consent of fewer than all the interest holders.

20 (ii) The interest holder voted for or consented in
21 record form to that provision of the organic rules or
22 became an interest holder after the adoption of that
23 provision.

24 (3) Except as provided in the organic rules of the
25 domestic entity, by the following class votes:

26 (i) the holders of any class or series of interests
27 of the acquired association to be exchanged or canceled
28 shall be entitled to vote as a class on the plan; and

29 (ii) the holders of any class or series of interests
30 of the acquired association shall be entitled to vote as

1 a class on the plan if the plan effects any change in the
2 organic rules and those holders would have been entitled
3 to vote as a class if the change had been made in any
4 other manner.

5 (b) Approval by foreign associations.--An interest exchange
6 in which the acquired association is a foreign association is
7 not effective unless it is approved by the foreign association
8 in accordance with the law of its jurisdiction of formation.

9 (c) Acquiring association.--Except as provided in its
10 organic law or organic rules, the interest holders of the
11 acquiring association are not required to approve the interest
12 exchange.

13 (d) Dissenters rights.--If a shareholder of a domestic
14 business corporation that is to be the acquired association in
15 an interest exchange objects to the plan of exchange and
16 complies with Subchapter D of Chapter 15 (relating to dissenters
17 rights), the shareholder shall be entitled to dissenters rights
18 to the extent provided in that subchapter.

19 (e) Cross references.--See sections 317 (relating to
20 contractual dissenters rights in entity transactions) and 329(c)
21 (relating to special treatment of interest holders).

22 § 344. Amendment or abandonment of plan of interest exchange.

23 (a) General rule.--A plan of interest exchange may be
24 amended or abandoned only with the consent of each party to the
25 plan, except as otherwise provided in the plan.

26 (b) Approval of amendment.--A domestic entity that is the
27 acquired association may approve an amendment of a plan of
28 interest exchange in one of the following ways:

29 (1) In the same manner as the plan was approved, if the
30 plan does not provide for the manner in which it may be

1 amended.

2 (2) By its governors or interest holders in the manner
3 provided in the plan, but an interest holder that was
4 entitled to vote on or consent to approval of the plan is
5 entitled to vote on or consent to any amendment of the plan
6 that will change any of the following:

7 (i) The amount or kind of interests, securities,
8 obligations, money, other property, rights to acquire
9 interests or securities, or any combination of the
10 foregoing, to be received by any of the interest holders
11 of the entity under the plan.

12 (ii) The public organic record, if any, or private
13 organic rules of the entity that will be in effect
14 immediately after the interest exchange becomes
15 effective, except for changes that do not require
16 approval of the interest holders of the entity under its
17 organic law or organic rules.

18 (iii) Any other terms or conditions of the plan, if
19 the change would:

20 (A) increase the interest holder liability to
21 which the interest holder will be subject; or

22 (B) otherwise adversely affect the interest
23 holder in any material respect.

24 (c) Approval of abandonment.--After a plan of interest
25 exchange has been approved by a domestic entity that is the
26 acquired entity and before a statement of interest exchange
27 becomes effective, the plan may be abandoned as provided in the
28 plan. Unless prohibited by the plan, a domestic entity that is
29 the acquired association may abandon the plan in the same manner
30 as the plan was approved.

1 (d) Statement of abandonment.--If a plan of interest
2 exchange is abandoned after a statement of interest exchange has
3 been delivered to the department for filing and before the
4 statement becomes effective, a statement of abandonment UNDER <--
5 SECTION 141 (RELATING TO ABANDONMENT OF FILING BEFORE
6 EFFECTIVENESS), signed by the acquired association, must be
7 delivered to the department for filing before the time the
8 statement of interest exchange becomes effective. The statement <--
9 of abandonment shall take effect on filing, and the interest
10 exchange shall be abandoned and shall not become effective. The
11 statement of abandonment shall contain all of the following:

- 12 (1) The name of the acquired association.
13 (2) The date on which the statement of interest exchange
14 was filed by the department.
15 (3) A statement that the interest exchange has been
16 abandoned in accordance with this section.
17 (e) Cross references. See sections 134 (relating to
18 docketing statement) and 135 (relating to requirements to be met
19 by filed documents).

20 § 345. Statement of interest exchange; effectiveness.

21 (a) General rule.--If the acquired association is a domestic
22 entity, a statement of interest exchange shall be signed by that
23 entity and delivered to the department for filing.

24 (b) Contents.--A statement of interest exchange shall
25 contain all of the following:

- 26 (1) With respect to the acquired association:
27 (i) its name;
28 (ii) its jurisdiction of formation;
29 (iii) its type;
30 (iv) if it is a domestic filing association or

1 domestic limited liability partnership, the address of
2 its registered office, including street and number, if
3 any, in this Commonwealth, subject to section 109
4 (relating to name of commercial registered office
5 provider in lieu of registered address); and

6 (v) if it is a domestic association that is not a
7 domestic filing association or limited liability
8 partnership, the address, including street and number, if
9 any, of its principal office.

10 (2) With respect to the acquiring association:

11 (i) its name;

12 (ii) its jurisdiction of formation;

13 (iii) its type;

14 (iv) if it is a domestic filing association,
15 domestic limited liability partnership or registered
16 foreign association, the address of its registered
17 office, including street and number, if any, in this
18 Commonwealth, subject to section 109;

19 (v) if it is a domestic association that is not a
20 domestic filing association or limited liability
21 partnership, the address, including street and number, if
22 any, of its principal office; and

23 (vi) if it is a nonregistered foreign association,
24 the address, including street and number, if any, of:

25 (A) its registered or similar office, if any,
26 required to be maintained by the law of its
27 jurisdiction of formation; or

28 (B) if it is not required to maintain a
29 registered or similar office, its principal office.

30 (3) If the statement of interest exchange is not to be

1 effective on filing, the later date or date and time on which
2 it will become effective.

3 (4) A statement that the plan of interest exchange was
4 approved by the acquired association in accordance with this
5 chapter.

6 (5) Any amendments to the public organic record of the
7 acquired association approved as part of the plan of interest
8 exchange.

9 (c) Other provisions.--In addition to the requirements of
10 subsection (b), a statement of interest exchange may contain any
11 other provision not prohibited by law.

12 (d) Filing of plan.--A plan of interest exchange that is
13 signed by the domestic entity that is the acquired association
14 and that meets all of the requirements of subsection (b) may be
15 delivered to the department for filing instead of a statement of
16 interest exchange and on filing shall have the same effect. If a
17 plan of interest exchange is delivered to the department for
18 filing as provided in this subsection, references in this
19 chapter to a statement of interest exchange shall refer to the
20 plan of interest exchange filed under this subsection.

21 (e) Effectiveness.--An interest exchange in which the
22 acquired association is a domestic entity is effective when the
23 statement of interest exchange is effective as provided in
24 section 136(c) (relating to processing of documents by
25 Department of State).

26 (f) Cross references.--See sections 134 (relating to
27 docketing statement) and 135 (relating to requirements to be met
28 by filed documents).

29 § 346. Effect of interest exchange.

30 (a) General rule.--When an interest exchange in which the

1 acquired association is a domestic entity becomes effective, all
2 of the following apply:

3 (1) Interests in the acquired association are exchanged
4 or canceled as provided in the plan of exchange, and the
5 interest holders of those interests are entitled only to the
6 rights provided to them under the plan and to any dissenters
7 rights they have pursuant to section 317 (relating to
8 contractual dissenters rights in entity transactions) or
9 343(d) (relating to approval of interest exchange).

10 (2) The acquiring association becomes the interest
11 holder of the interests in the acquired association stated in
12 the plan of interest exchange to be acquired by the acquiring
13 entity.

14 (3) The public organic record, if any, of the acquired
15 association is amended to the extent provided in the
16 statement of interest exchange.

17 (4) The private organic rules of the acquired
18 association that are to be in record form, if any, are
19 amended to the extent provided in the plan of interest
20 exchange.

21 (b) No dissolution rights.--Except as provided in the
22 organic rules of the acquired association, the interest exchange
23 shall not give rise to any rights that an interest holder,
24 governor or third party would have upon a dissolution,
25 liquidation or winding up of the acquired association.

26 (c) New interest holder liability.--When an interest
27 exchange becomes effective, a person that becomes subject to
28 interest holder liability with respect to an association as a
29 result of the interest exchange has interest holder liability
30 only to the extent provided by the organic law of the

1 association and only for those debts, obligations and other
2 liabilities that arise after the interest exchange becomes
3 effective.

4 (d) Prior interest holder liability.--When an interest
5 exchange becomes effective, the interest holder liability of a
6 person that ceases to hold an interest in a domestic acquired
7 association with respect to which the person had interest holder
8 liability is as follows:

9 (1) The interest exchange does not discharge any
10 interest holder liability under the organic law of the
11 domestic acquired association to the extent the interest
12 holder liability arose before the interest exchange became
13 effective.

14 (2) The person does not have interest holder liability
15 under the organic law of the domestic acquired association
16 for any debt, obligation or other liability that arises after
17 the interest exchange becomes effective.

18 (3) The organic law of the domestic acquired association
19 continues to apply to the release, collection or discharge of
20 any interest holder liability preserved under paragraph (1)
21 as if the interest exchange had not occurred.

22 (4) The person has whatever rights of contribution from
23 any other person as are provided by law other than this title
24 or the organic law or organic rules of the domestic acquired
25 association with respect to any interest holder liability
26 preserved under paragraph (1) as if the interest exchange had
27 not occurred.

28 SUBCHAPTER E

29 CONVERSION

30 Sec.

1 351. Conversion authorized.

2 352. Plan of conversion.

3 353. Approval of conversion.

4 354. Amendment or abandonment of plan of conversion.

5 355. Statement of conversion; effectiveness.

6 356. Effect of conversion.

7 § 351. Conversion authorized.

8 (a) Domestic converting associations.--Except as provided in
9 section 318 (relating to excluded entities and transactions) or
10 this section, by complying with this chapter:

11 (1) A domestic entity may become a domestic entity of a
12 different type or a domestic banking institution.

13 (2) A domestic banking institution may become a domestic
14 association of a different type.

15 (3) A domestic entity may become a foreign association
16 of a different type, if the conversion is authorized by the
17 law of the foreign jurisdiction.

18 (b) Foreign converting associations.--By complying with the
19 applicable provisions of this subchapter, a foreign association
20 may become a domestic entity of a different type if the
21 conversion is authorized by the law of the jurisdiction of
22 formation of the foreign association.

23 (c) Protected governance agreements.--If a protected
24 governance agreement that is binding on a domestic entity
25 immediately before the effectiveness of a transaction under this
26 chapter contains a provision that applies to a merger of the
27 entity but does not refer to a conversion, the provision shall
28 apply to a conversion of the entity as if the conversion were a
29 merger until the provision is amended after July 1, 2015.

30 (d) Exceptions.--This subchapter may not be used to

1 accomplish a transaction that has the same effect as a
2 transaction under any of the following provisions:

3 (1) Section 7104 (relating to election of an existing
4 business corporation to become a cooperative corporation).

5 (2) Section 7105 (relating to termination of status as a
6 cooperative corporation for profit).

7 (3) Section 7106 (relating to election of an existing
8 nonprofit corporation to become a cooperative corporation).

9 (4) Section 7107 (relating to termination of nonprofit
10 cooperative corporation status).

11 (e) Cross reference.--See section 314 (relating to
12 regulatory conditions and required notices and approvals).

13 § 352. Plan of conversion.

14 (a) General rule.--A domestic entity or domestic banking
15 institution may be a party to a conversion by approving a plan
16 of conversion. The plan shall be in record form and contain all
17 of the following:

18 (1) The name and type of the converting association.

19 (2) The name, jurisdiction of formation and type of
20 converted association.

21 (3) The manner of:

22 (i) canceling, if desired, some, but less than all,
23 of the interests in the converting association;

24 (ii) converting at least some of the interests in
25 the converting association into interests in the
26 converted association; and

27 (iii) converting the interests in the converting
28 association not canceled under subparagraph (i) or
29 converted under subparagraph (ii) into interests,
30 securities, obligations, money, other property, rights to

1 acquire interests or securities or any combination of the
2 foregoing.

3 (4) The proposed public organic record of the converted
4 association if it will be a filing entity.

5 (5) The full text of the private organic rules of the
6 converted association that are proposed to be in record form.

7 (6) Provisions, if any, providing special treatment of
8 interests in the converting association held by any interest
9 holder or group of interest holders as authorized by and
10 subject to section 329 (relating to special treatment of
11 interest holders).

12 (7) The other terms and conditions of the conversion.

13 (8) Any other provision required by:

14 (i) the law of this Commonwealth;

15 (ii) the law of the jurisdiction of formation of the
16 converted association if it is to be a foreign
17 association; or

18 (iii) the organic rules of the converting
19 association.

20 (b) Optional contents.--In addition to the requirements of
21 subsection (a), a plan of conversion may contain any other
22 provision not prohibited by law.

23 (c) Terms of interests.--The ownership, voting and other
24 rights of the interest holders in the converted association
25 shall be substantially the same as they were in the converting
26 association except:

27 (1) as provided in the plan of conversion pursuant to
28 section 329;

29 (2) as provided in the express terms of the organic
30 rules of the converted association that are in record form;

1 or

2 (3) to the extent a difference in those rights is
3 required by a provision of the organic law of the converted
4 association that cannot be varied in its organic rules.

5 (d) Cross reference.--See section 316(c) (relating to
6 contents of plan).

7 § 353. Approval of conversion.

8 (a) Approval by domestic associations.--A plan of conversion
9 in which the converting association is a domestic entity or
10 domestic banking institution shall not be effective unless it
11 has been approved in the following ways:

12 (1) In the case of a domestic entity, in accordance with
13 the applicable provisions of Subchapter B (relating to
14 approval of entity transactions).

15 (2) In the case of a domestic banking institution that
16 is a corporation, by at least:

17 (i) In the case of a mutual savings bank:

18 (A) two-thirds of the trustees present at a
19 meeting at which the plan is proposed; and

20 (B) two-thirds of all the trustees at a
21 subsequent meeting held upon not less than ten days'
22 notice to all the trustees.

23 (ii) In the case of any other institution:

24 (A) a majority of the directors; and

25 (B) the shareholders entitled to cast at least
26 two-thirds of the votes which all shareholders are
27 entitled to cast thereon, and, if any class of shares
28 is entitled to vote thereon as a class, the holders
29 of at least two-thirds of the outstanding shares of
30 such class, at a meeting held upon not less than ten

1 days' notice to all shareholders.

2 (3) In record form, by each interest holder, if any, of
3 the converting association that will have interest holder
4 liability for debts, obligations and other liabilities that
5 arise after the conversion becomes effective, unless, as to
6 an interest holder that does not approve the plan, both of
7 the following apply:

8 (i) The organic rules of the converting association
9 provide in record form for the approval of a conversion
10 or a merger in which some or all of its interest holders
11 become subject to interest holder liability by the vote
12 or consent of fewer than all of the interest holders.

13 (ii) The interest holder voted for or consented in
14 record form to that provision of the organic rules or
15 became an interest holder after the adoption of that
16 provision.

17 (b) Approval by foreign associations.--A conversion in which
18 the converting association is a foreign association shall not be
19 effective unless it is approved by the foreign association in
20 accordance with the law of its jurisdiction of formation.

21 (c) Dissenters rights.--The following apply with respect to
22 the rights of an interest holder of the converting association:

23 (1) A shareholder of a domestic business corporation
24 that is to be a converting association shall be entitled to
25 dissenters rights if:

26 (i) the shareholder objects to the plan of
27 conversion and complies with Subchapter D of Chapter 15
28 (relating to dissenters rights); and

29 (ii) the conversion involves a change in the rights
30 of the shareholder pursuant to section 352(c)(1) or (2)

1 (relating to plan of conversion).

2 (2) A shareholder of a domestic banking institution that
3 is to be a converting association shall be entitled to the
4 rights provided in section 1222 of the act of November 30,
5 1965 (P.L.847, No.356), known as the Banking Code of 1965,
6 if:

7 (i) the shareholder objects to the plan of
8 conversion and complies with section 1222 of the Banking
9 Code of 1965; and

10 (ii) the conversion involves a change in the rights
11 of the shareholder pursuant to section 352(c)(1) or (2).

12 (3) See sections 317 (relating to contractual dissenters
13 rights in entity transactions) and 329 (relating to special
14 treatment of interest holders).

15 § 354. Amendment or abandonment of plan of conversion.

16 (a) Approval of amendment.--A plan of conversion in which
17 the converting association is a domestic association may be
18 amended in one of the following ways:

19 (1) In the same manner as the plan was approved, if the
20 plan does not provide for the manner in which it may be
21 amended.

22 (2) By its governors or interest holders in the manner
23 provided in the plan, but an interest holder that was
24 entitled to vote on or consent to approval of the plan is
25 entitled to vote on or consent to any amendment of the plan
26 that will change any of the following:

27 (i) The amount or kind of interests, securities,
28 obligations, money, other property, rights to acquire
29 interests or securities, or any combination of the
30 foregoing, to be received by any of the interest holders

1 of the converting association under the plan.

2 (ii) The public organic record, if any, or private
3 organic rules of the converted association that will be
4 in effect immediately after the conversion becomes
5 effective, except for changes that do not require
6 approval of the interest holders of the converted
7 association under its organic law or organic rules.

8 (iii) Any other terms or conditions of the plan, if
9 the change would:

10 (A) increase the interest holder liability to
11 which the interest holder will be subject; or

12 (B) otherwise adversely affect the interest
13 holder in any material respect.

14 (b) Approval of abandonment.--After a plan of conversion has
15 been approved by a converting association that is a domestic
16 association and before a statement of conversion becomes
17 effective, the plan may be abandoned as provided in the plan.
18 Unless prohibited by the plan, a domestic converting association
19 may abandon the plan in the same manner as the plan was
20 approved.

21 (c) Statement of abandonment.--If a plan of conversion is
22 abandoned after a statement of conversion has been delivered to
23 the department for filing and before the statement of conversion
24 becomes effective, a statement of abandonment UNDER SECTION 141 <--
25 (RELATING TO ABANDONMENT OF FILING BEFORE EFFECTIVENESS), signed
26 by the converting association, must be delivered to the
27 department for filing before the statement of conversion becomes
28 effective. ~~The statement of abandonment shall take effect on~~ <--
29 ~~filing, and the conversion shall be abandoned and shall not~~
30 ~~become effective. The statement of abandonment shall contain all~~

1 ~~of the following:~~

2 ~~(1) The name of the converting association.~~

3 ~~(2) The date on which the statement of conversion was~~
4 ~~delivered to the department for filing.~~

5 ~~(3) A statement that the conversion has been abandoned~~
6 ~~in accordance with this section.~~

7 ~~(d) Cross references. See sections 134 (relating to~~
8 ~~docketing statement) and 135 (relating to requirements to be met~~
9 ~~by filed documents).~~

10 § 355. Statement of conversion; effectiveness.

11 (a) General rule.--A statement of conversion shall be signed
12 by the converting association and delivered to the department
13 for filing along with the certificates, if any, required by
14 section 139 (relating to tax clearance of certain fundamental
15 transactions).

16 (b) Contents.--A statement of conversion shall contain all
17 of the following:

18 (1) With respect to the converting association:

19 (i) its name;

20 (ii) its jurisdiction of formation;

21 (iii) its type;

22 (iv) the date on which it was first created,
23 incorporated, formed or otherwise came into existence;

24 (v) if it is a domestic filing association, the
25 statute under which it was first created, incorporated,
26 formed or otherwise came into existence;

27 (vi) if it is a domestic filing association,
28 domestic limited liability partnership or registered
29 foreign association:

30 (A) the address of its registered office,

1 including street and number, if any, in this
2 Commonwealth, subject to section 109 (relating to
3 name of commercial registered office provider in lieu
4 of registered address); or

5 (B) if it is not required to maintain a
6 registered office in this Commonwealth, the address,
7 including street and number, if any, of its principal
8 office;

9 (vii) if it is a domestic association that is not a
10 domestic filing association or limited liability
11 partnership, the address, including street and number, if
12 any, of its principal office; and

13 (viii) if it is a nonregistered foreign association,
14 the address, including street and number, if any, of:

15 (A) its registered or similar office, if any,
16 required to be maintained by the law of its
17 jurisdiction of formation; or

18 (B) if it is not required to maintain a
19 registered or similar office, its principal office.

20 (2) With respect to the converted association:

21 (i) its name;

22 (ii) its jurisdiction of formation;

23 (iii) its type;

24 (iv) if it is a domestic filing association,
25 domestic limited liability partnership or registered
26 foreign association:

27 (A) the address of its registered office,
28 including street and number, if any, in this
29 Commonwealth, subject to section 109; or

30 (B) if it is not required to maintain a

1 registered office in this Commonwealth, the address,
2 including street and number, if any, of its principal
3 office;

4 (v) if it is a domestic association that is not a
5 domestic filing association or limited liability
6 partnership, the address, including street and number, if
7 any, of its principal office; and

8 (vi) if it is a nonregistered foreign association,
9 the address, including street and number, if any, of:

10 (A) its registered or similar office, if any,
11 required to be maintained by the law of its
12 jurisdiction of formation; or

13 (B) if it is not required to maintain a
14 registered or similar office, its principal office.

15 (3) If the statement of conversion is not to be
16 effective on filing, the later date or date and time on which
17 it will become effective.

18 (4) If the converting association is a domestic
19 association, a statement that the plan of conversion was
20 approved in accordance with this chapter or, if the
21 converting association is a foreign association, a statement
22 that the conversion was approved by the foreign association
23 in accordance with the law of its jurisdiction of formation.

24 (5) If the converted association is a domestic filing
25 entity or domestic banking institution, its public organic
26 record as an attachment. The public organic record does not
27 need to state the name or address of an incorporator of a
28 corporation, organizer of a limited liability company or
29 similar person with respect to any other type of entity.

30 (6) If the converted association is a domestic limited

1 liability partnership or a domestic limited liability limited
2 partnership that is not using the alternative procedure in
3 section 8201(f) (relating to scope), its statement of
4 registration as an attachment.

5 (7) If the converted association is a domestic electing
6 partnership, its statement of election as an attachment.

7 (8) If the converted association is a nonregistered
8 foreign association, one of the following:

9 (i) The street and mailing addresses of its
10 registered agent and registered office in its
11 jurisdiction of formation if it is a filing entity.

12 (ii) The street and mailing address of its principal
13 office if it is not a filing entity.

14 (c) Other provisions.--In addition to the requirements of
15 subsection (b), a statement of conversion may contain any other
16 provision not prohibited by law.

17 (d) Domestic converted association.--If the converted
18 association is a domestic association, its public organic
19 record, if any, must satisfy the requirements of the law of this
20 Commonwealth, except that the public organic record does not
21 need to be signed and may omit any provision that is not
22 required to be included in a restatement of the public organic
23 record.

24 (e) Filing of plan.--A plan of conversion that is signed by
25 the converting association and meets all the requirements of
26 subsection (b) may be delivered to the department for filing
27 instead of a statement of conversion and on filing has the same
28 effect. If a plan of conversion is filed as provided in this
29 subsection, references in this chapter to a statement of
30 conversion refer to the plan of conversion filed under this

1 subsection.

2 (f) Effectiveness of statement of conversion.--A statement
3 of conversion is effective as provided in section 136(c)
4 (relating to processing of documents by Department of State).

5 (g) Effectiveness of conversion.--If the converted
6 association is a domestic association, the conversion is
7 effective when the statement of conversion is effective. If the
8 converted association is a foreign association, the conversion
9 is effective on the later of:

10 (1) the date and time provided by the organic law of the
11 converted association; or

12 (2) when the statement of conversion is effective.

13 (h) Cross references.--See sections 134 (relating to
14 docketing statement) and 135 (relating to requirements to be met
15 by filed documents).

16 § 356. Effect of conversion.

17 (a) General rule.--When a conversion becomes effective, all
18 of the following apply:

19 (1) The converted association is:

20 (i) Organized under and subject to the organic law
21 of the converted association.

22 (ii) The same association without interruption as
23 the converting association.

24 (iii) Deemed to have commenced its existence on the
25 date the converting association commenced its existence
26 in the jurisdiction in which the converting association
27 was first created, incorporated, formed or otherwise came
28 into existence, except for purposes of determining how
29 the converted association is taxed.

30 (2) All property of the converting association continues

1 to be vested in the converted association without reversion
2 or impairment, and the conversion shall not constitute a
3 transfer of any of that property.

4 (3) All debts, obligations and other liabilities of the
5 converting association continue as debts, obligations and
6 other liabilities of the converted association.

7 (4) Except as provided by law or the plan of conversion, <--
8 all of the rights, privileges, immunities, AND powers and <--
9 purposes of the converting association continue to be vested
10 without change in the converted association.

11 (5) The LIENS ON THE PROPERTY OF THE CONVERTING <--
12 ASSOCIATION SHALL NOT BE IMPAIRED BY THE CONVERSION.

13 (6) A CLAIM EXISTING OR AN ACTION OR A PROCEEDING
14 PENDING BY OR AGAINST THE CONVERTING ASSOCIATION MAY BE
15 PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN
16 PLACE, AND THE name of the converted association may be
17 substituted for the name of the converting association in any
18 pending action or proceeding.

19 ~~(6)~~ (7) If a converted association is a filing <--
20 association, its public organic record is effective.

21 ~~(7)~~ (8) If the converted association is a limited <--
22 liability partnership or a limited liability limited
23 partnership that is not using the alternative procedure in
24 section 8201(f) (relating to scope), its statement of
25 registration is effective.

26 ~~(8)~~ (9) If the converted association is an electing <--
27 partnership, its statement of election is effective.

28 ~~(9)~~ (10) Any private organic rules of the converted <--
29 association that are to be in record form and were approved
30 as part of the plan of conversion are effective.

1 ~~(10)~~ (11) The interests in the converting association <--
2 are converted or canceled in accordance with and as provided
3 in the plan of conversion, and the interest holders of the
4 converting association are entitled only to the rights
5 provided to them under the plan and to any dissenters rights
6 they have pursuant to section 317 (relating to contractual
7 dissenters rights in entity transactions) or 353(c) (relating
8 to approval of conversion).

9 ~~(11)~~ (12) Except as otherwise provided in the plan of <--
10 conversion or organic rules pursuant to section 352(c)
11 (relating to plan of conversion), the conversion does not
12 constitute and shall not be deemed to result in a change of
13 control of the converting association and the converted
14 association shall remain under the control of the same
15 persons that controlled the converting association
16 immediately before the conversion.

17 (b) No other rights.--The conversion does not give rise to
18 any rights:

19 (1) that a third party would have upon a transfer of
20 assets, merger, dissolution, liquidation or winding up of the
21 converting association, except as provided in subsection(a)
22 (11); or

23 (2) that an interest holder or governor would have upon
24 a dissolution, liquidation or winding up of the converting
25 association, except as provided in the organic law or organic
26 rules of the converting association.

27 (c) New interest holder liability.--When a conversion
28 becomes effective, a person that becomes subject to interest
29 holder liability with respect to a domestic association as a
30 result of the conversion has interest holder liability only to

1 the extent provided by the organic law of the association and
2 only for those debts, obligations and other liabilities that
3 arise after the conversion becomes effective.

4 (d) Prior interest holder liability.--When a conversion
5 becomes effective, the interest holder liability of a person
6 that ceases to hold an interest in a domestic converting
7 association with respect to which the person had interest holder
8 liability is as follows:

9 (1) The conversion does not discharge any interest
10 holder liability under the organic law of the domestic
11 converting association to the extent the interest holder
12 liability arose before the conversion became effective.

13 (2) The person does not have interest holder liability
14 under the organic law of the domestic converting association
15 for any debt, obligation or other liability that arises after
16 the conversion becomes effective.

17 (3) The organic law of the domestic converting
18 association continues to apply to the release, collection or
19 discharge of any interest holder liability preserved under
20 paragraph (1) as if the conversion had not occurred.

21 (4) The person has whatever rights of contribution from
22 any other person as are provided by other law or the organic
23 law or organic rules of the domestic converting association
24 with respect to any interest holder liability preserved under
25 paragraph (1) as if the conversion had not occurred.

26 (e) Foreign converted association.--When a conversion
27 becomes effective, a foreign association that is the converted
28 association may be served with process in this Commonwealth for
29 the collection and enforcement of any of its debts, obligations
30 and other liabilities in accordance with applicable law.

1 (f) Association not dissolved.--A conversion does not
2 require a domestic converting association to liquidate, dissolve
3 or wind up its affairs and does not constitute or cause the
4 liquidation or dissolution of the association.

5 (g) Taxes.--Any taxes, interest, penalties and public
6 accounts of the Commonwealth claimed against the converting
7 association that are settled, assessed or determined prior to or
8 after the conversion shall be the liability of the converted
9 association AND, TOGETHER WITH INTEREST THEREON, SHALL BE A LIEN <--
10 AGAINST THE FRANCHISES AND PROPERTY OF THE CONVERTED
11 ASSOCIATION.

12 (h) Cross references.--See sections 416 (relating to
13 withdrawal deemed on certain transactions) and 417 (relating to
14 required withdrawal on certain transactions).

15 SUBCHAPTER F

16 DIVISION

17 Sec.

18 361. Division authorized.

19 362. Plan of division.

20 363. Approval of division.

21 364. Division without interest holder approval.

22 365. Amendment or abandonment of plan of division.

23 366. Statement of division; effectiveness.

24 367. Effect of division.

25 368. Allocation of liabilities in division.

26 § 361. Division authorized.

27 (a) Domestic entities.--Except as provided in section 318
28 (relating to excluded entities and transactions) or this
29 section, by complying with this subchapter, a domestic entity
30 may divide into:

1 (1) the dividing association and one or more new
2 associations that are either domestic entities or foreign
3 associations; or

4 (2) two or more new associations that are either
5 domestic entities or foreign associations.

6 (b) Foreign associations.--

7 (1) A foreign association may be created by the division
8 of a domestic entity only if the division is authorized by
9 the law of the jurisdiction of formation of the foreign
10 association.

11 (2) If the division is authorized by the law of the
12 jurisdiction of formation of the foreign association, one or
13 more of the resulting associations created in a division of a
14 foreign association may be a domestic entity.

15 (c) Exception.--A domestic banking institution that is a
16 domestic entity may be a dividing association only if all of the
17 resulting associations are domestic banking institutions.

18 (d) Cross reference.--See section 314 (relating to
19 regulatory conditions and required notices and approvals).
20 § 362. Plan of division.

21 (a) General rule.--A domestic entity may become a dividing
22 association under this chapter by approving a plan of division.
23 The plan shall be in record form and contain all of the
24 following:

25 (1) The name and type of the dividing association.

26 (2) A statement as to whether the dividing association
27 will survive the division.

28 (3) The name, jurisdiction of formation and type of each
29 new association.

30 (4) The manner of:

1 (i) If the dividing association survives the
2 division and it is desired:

3 (A) Canceling some, but less than all, of the
4 interests in the dividing association.

5 (B) Converting some, but less than all, of the
6 interests in the dividing association into interests,
7 securities, obligations, money, other property,
8 rights to acquire interests or securities, or any
9 combination of the foregoing.

10 (ii) If the dividing association does not survive
11 the division, canceling or converting the interests in
12 the dividing association into interests, securities,
13 obligations, money, other property, rights to acquire
14 interests or securities, or any combination of the
15 foregoing.

16 (iii) Allocating between or among the resulting
17 associations the property of the dividing association
18 that will not be owned by all of the resulting
19 associations as tenants in common pursuant to section
20 367(a) (4) (relating to effect of division) and those
21 liabilities of the dividing association as to which not
22 all of the resulting associations will be liable jointly
23 and severally pursuant to section 368(a) (3) (relating to
24 allocation of liabilities in division).

25 (iv) Distributing the interests of the new
26 associations.

27 (5) For each new association:

28 (i) its proposed public organic record if it will be
29 a filing association; and

30 (ii) the full text of its private organic rules that

1 will be in record form.

2 (6) If the dividing association will survive the
3 division, any proposed amendments to its public organic
4 record or private organic rules that are or will be in record
5 form.

6 (7) Provisions, if any, providing special treatment of
7 interests in the dividing association held by any interest
8 holder or group of interest holders as authorized by and
9 subject to section 329 (relating to special treatment of
10 interest holders).

11 (8) The other terms and conditions of the division.

12 (9) Any other provision required by:

13 (i) the law of this Commonwealth;

14 (ii) the law of the jurisdiction of formation of any
15 of the resulting associations; or

16 (iii) the organic rules of the dividing association.

17 (b) Optional contents.--In addition to the requirements of
18 subsection (a), a plan of division may contain any other
19 provision not prohibited by law.

20 (c) Description of property and liabilities.--It shall not
21 be necessary for a plan of division to list each individual
22 liability or item of property of the dividing association to be
23 allocated to a resulting association so long as the liabilities
24 and property are described in a reasonable manner.

25 (d) Cross reference.--See section 316(c) (relating to
26 contents of plan).

27 § 363. Approval of division.

28 (a) Approval by domestic entities.--Except as provided in
29 section 364 (relating to division without interest holder
30 approval) or subsection (d), a plan of division in which the

1 dividing association is a domestic entity is not effective
2 unless it has been approved in both of the following ways:

3 (1) The plan is approved by the domestic entity in
4 accordance with the applicable provisions of Subchapter B
5 (relating to approval of entity transactions).

6 (2) The plan is approved in record form by each interest
7 holder, if any, of the domestic entity that will have
8 interest holder liability for debts, obligations and other
9 liabilities that arise after the division becomes effective,
10 unless, as to an interest holder that does not approve the
11 plan, both of the following apply:

12 (i) The organic rules of the domestic entity provide
13 in record form for the approval of a division in which
14 some or all of its interest holders become subject to
15 interest holder liability by the vote or consent of fewer
16 than all of the interest holders.

17 (ii) The interest holder voted for or consented in
18 record form to that provision of the organic rules or
19 became an interest holder after the adoption of the
20 provision.

21 (b) Approval by foreign associations.--A division of a
22 foreign association in which one or more of the resulting
23 associations is a domestic entity is not effective unless it is
24 approved by the foreign association in accordance with the law
25 of its jurisdiction of formation.

26 (c) Dissenters rights.--If a shareholder of a domestic
27 business corporation that is to be a dividing association
28 objects to the plan of division and complies with Subchapter D
29 of Chapter 15 (relating to dissenters rights), the shareholder
30 shall be entitled to dissenters rights to the extent provided in

1 that subchapter. See sections 317 (relating to contractual
2 dissenters rights in entity transactions) and 329 (relating to
3 special treatment of interest holders).

4 (d) Transitional approval requirements.--

5 (1) If a provision of the organic rules of a dividing
6 association that is a domestic entity of the type described
7 was adopted before the date indicated and requires for the
8 proposal or adoption of a plan of merger a specific number or
9 percentage of votes of governors or interest holders or other
10 special procedures, a plan of division shall not be proposed
11 or adopted by the governors or interest holders without that
12 number or percentage of votes or compliance with the other
13 special procedures:

14 (i) For a dividing association that is a domestic
15 business corporation, before October 1, 1989.

16 (ii) For a dividing association that is a general
17 partnership, before July 1, 2015.

18 (iii) For a dividing association that is a limited
19 partnership, before February 5, 1995.

20 (iv) For a dividing association that is an
21 unincorporated nonprofit association, before July 1,
22 2015.

23 (2) If a provision of any debt securities, notes or
24 similar evidences of indebtedness for money borrowed, whether
25 secured or unsecured, indentures or other contracts that were
26 issued, incurred or executed by a dividing association that
27 is a domestic entity of the type described before the date
28 indicated, and the provision requires the consent of the
29 obligee to a merger of the dividing association or treats
30 such a merger as a default, the provision shall apply to a

1 division of the dividing association as if it were a merger:

2 (i) For a dividing association that is a domestic
3 business corporation, before August 21, 2001.

4 (ii) For a dividing association that is a general
5 partnership, before July 1, 2015.

6 (iii) For a dividing association that is a limited
7 partnership, before July 1, 2015.

8 (iv) For a dividing association that is an
9 unincorporated nonprofit association, before July 1,
10 2015.

11 (3) When a provision described in paragraph (1) or (2)
12 has been amended after the applicable date, the provision
13 shall cease to be subject to the respective paragraph and
14 shall thereafter apply only in accordance with its express
15 terms.

16 § 364. Division without interest holder approval.

17 (a) General rule.--Unless otherwise restricted by its
18 organic rules, a plan of division of a domestic dividing
19 association shall not require the approval of the interest
20 holders of the dividing association if:

21 (1) The plan does not do any of the following:

22 (i) alter the jurisdiction of formation of the
23 dividing association;

24 (ii) provide for special treatment; or

25 (iii) amend in any respect the provisions of the
26 public organic record of the dividing association, except
27 amendments which may be made without the approval of the
28 interest holders.

29 (2) Either:

30 (i) the dividing association survives the division

1 and all the interests and other securities and
2 obligations, if any, of all of the new associations are
3 owned solely by the dividing association; or

4 (ii) the interests in each new association are
5 distributed as provided in subsection (b).

6 (b) Distribution of interests.--The requirements for
7 distributing interests in each new association referred to in
8 subsection (a) (2) (ii) are as follows:

9 (1) if the dividing association is not a limited
10 partnership, the dividing association has only one class of
11 interests outstanding and the interests and other securities
12 and obligations, if any, of each new association are
13 distributed pro rata to the interest holders of the dividing
14 association; or

15 (2) if the dividing association is a limited
16 partnership:

17 (i) it has only one class of general partners and
18 one class of limited partners;

19 (ii) each new association is a limited partnership;

20 and

21 (iii) all of the following apply:

22 (A) the general partner interests in each new
23 association are distributed pro rata to the general
24 partners of the dividing limited partnership;

25 (B) the limited partner interests in each new
26 association are distributed pro rata to the limited
27 partners of the dividing limited partnership; and

28 (C) no securities of obligations of any of the
29 new associations are distributed to any of the
30 interest holders of the dividing limited partnership.

1 § 365. Amendment or abandonment of plan of division.

2 (a) Approval of amendment.--A plan of division in which the
3 dividing association is a domestic entity may be amended in one
4 of the following ways:

5 (1) In the same manner as the plan was approved, if the
6 plan does not provide for the manner in which it may be
7 amended.

8 (2) By its governors or interest holders in the manner
9 provided in the plan, but an interest holder that was
10 entitled to vote on or consent to approval of the plan is
11 entitled to vote on or consent to any amendment of the plan
12 that will change any of the following:

13 (i) The amount or kind of interests, securities,
14 obligations, money, other property, rights to acquire
15 interests or securities, or any combination of the
16 foregoing, to be received by any of the interest holders
17 of the dividing association under the plan.

18 (ii) The public organic record, if any, or private
19 organic rules of any of the resulting associations that
20 will be in effect immediately after the division becomes
21 effective, except for changes that do not require
22 approval of the interest holders of the resulting
23 association under its organic law or organic rules.

24 (iii) Any other terms or conditions of the plan, if
25 the change would:

26 (A) increase the interest holder liability to
27 which the interest holder will be subject; or

28 (B) otherwise adversely affect the interest
29 holder in any material respect.

30 (b) Approval of abandonment.--After a plan of division has

1 been approved by a domestic entity that is the dividing
2 association and before a statement of division becomes
3 effective, the plan may be abandoned as provided in the plan.
4 Unless prohibited by the plan, a domestic entity that is the
5 dividing association may abandon the plan in the same manner as
6 the plan was approved.

7 (c) Statement of abandonment.--If a plan of division is
8 abandoned after a statement of division has been delivered to
9 the department for filing and before the statement becomes
10 effective, a statement of abandonment UNDER SECTION 141 <--
11 (RELATING TO ABANDONMENT OF FILING BEFORE EFFECTIVENESS), signed
12 by the dividing association, must be delivered to the department
13 for filing before the time the statement of division becomes
14 effective. The statement of abandonment shall take effect on
15 filing, and the division shall be abandoned and shall not become
16 effective. The statement of abandonment shall contain all of the <--
17 following:

18 ~~(1) The name of the dividing association.~~

19 ~~(2) The date on which the statement of division was~~
20 ~~filed by the department.~~

21 ~~(3) A statement that the division has been abandoned in~~
22 ~~accordance with this section.~~

23 ~~(d) Cross references. See sections 134 (relating to~~
24 ~~docketing statement) and 135 (relating to requirements to be met~~
25 ~~by filed documents).~~

26 § 366. Statement of division; effectiveness.

27 (a) General rule.--A statement of division shall be signed
28 by the dividing association and delivered to the department for
29 filing along with the certificates, if any, required by section
30 139 (relating to tax clearance of certain fundamental

1 transactions).

2 (b) Contents.--A statement of division shall contain all of
3 the following:

4 (1) With respect to the dividing association:

5 (i) its name;

6 (ii) its jurisdiction of formation;

7 (iii) its type;

8 (iv) if it is a domestic filing association,

9 domestic limited liability partnership or registered

10 foreign association, the address of its registered

11 office, including street and number, if any, in this

12 Commonwealth, subject to section 109 (relating to name of

13 commercial registered office provider in lieu of

14 registered address);

15 (v) if it is a domestic association that is not a

16 domestic filing association or limited liability

17 partnership, the address, including street and number, if

18 any, of its principal office; and

19 (vi) if it is a nonregistered foreign association,

20 the address, including street and number, if any, of:

21 (A) its registered or similar office, if any,

22 required to be maintained by the law of its

23 jurisdiction of formation; or

24 (B) if it is not required to maintain a

25 registered or similar office, its principal office.

26 (2) A statement as to whether the dividing association

27 will survive the division.

28 (3) With respect to each resulting association created

29 by the division:

30 (i) its name;

1 (ii) its jurisdiction of formation;

2 (iii) its type;

3 (iv) if it is a domestic filing association,
4 domestic limited liability partnership or registered
5 foreign association, the address of its registered
6 office, including street and number, if any, in this
7 Commonwealth, subject to section 109;

8 (v) if it is a domestic association that is not a
9 domestic filing association or limited liability
10 partnership, the address, including street and number, if
11 any, of its principal office; and

12 (vi) if it is a nonregistered foreign association,
13 the address, including street and number, if any, of:

14 (A) its registered or similar office, if any,
15 required to be maintained by the law of its
16 jurisdiction of formation; or

17 (B) if it is not required to maintain a
18 registered or similar office, its principal office.

19 (4) If the statement of division is not to be effective
20 on filing, the later date or date and time on which it will
21 become effective.

22 (5) A statement that the division was approved in the
23 following ways:

24 (i) By a dividing association that is a domestic
25 entity, in accordance with this chapter.

26 (ii) By a dividing association that is a foreign
27 association, in accordance with the law of its
28 jurisdiction of formation.

29 (6) If the dividing association is a domestic filing
30 entity and survives the division, any amendment to its public

1 organic record approved as part of the plan of division.

2 (7) For each resulting association created by the
3 division that is a domestic entity, its public organic
4 record, if any, as an attachment. The public organic record
5 does not need to state the name or address of an incorporator
6 of a corporation, organizer of a limited liability company or
7 similar person with respect to any other type of entity.

8 (8) For each new association that is a domestic limited
9 liability partnership or a domestic limited liability limited
10 partnership that is not using the alternative procedure in
11 section 8201(f) (relating to scope), its statement of
12 registration as an attachment.

13 (9) For each new association that is an electing
14 partnership, its statement of election as an attachment.

15 (10) The property and liabilities of the dividing
16 association that are to be allocated to each resulting
17 association, but it shall not be necessary to list in the
18 statement of division each individual liability or item of
19 property of the dividing association to be allocated to a
20 resulting association so long as the liabilities and property
21 are described in a reasonable manner.

22 (c) Other provisions.--In addition to the requirements of
23 subsection (b), a statement of division may contain any other
24 provision not prohibited by law.

25 (d) New domestic entity.--If a new association is a domestic
26 entity, its public organic record, if any, must satisfy the
27 requirements of the law of this Commonwealth, except that it
28 does not need to be signed and may omit any provision that is
29 not required to be included in a restatement of the public
30 organic record.

1 (e) Filing of plan.--A plan of division that is signed by
2 the dividing association and meets all of the requirements of
3 subsection (b) may be delivered to the department for filing
4 instead of a statement of division and on filing has the same
5 effect. If a plan of division is filed as provided in this
6 subsection, references in this chapter to a statement of
7 division refer to the plan of division filed under this
8 subsection.

9 (f) Effectiveness of statement of division.--A statement of
10 division is effective as provided in section 136(c) (relating to
11 processing of documents by Department of State).

12 (g) Effectiveness of division.--A division takes effect as
13 follows:

14 (1) If the division is one in which all of the resulting
15 associations are domestic associations, the division is
16 effective when the statement of division is effective.

17 (2) If the division is one in which one or more of the
18 resulting associations is a foreign association, the division
19 is effective on the later of:

20 (i) the effectiveness of the statement of division;
21 or

22 (ii) when the division is effective under the law of
23 each of the jurisdictions of formation of the foreign
24 resulting associations.

25 (h) Cross references.--See sections 134 (relating to
26 docketing statement) and 135 (relating to requirements to be met
27 by filed documents).

28 § 367. Effect of division.

29 (a) General rule.--When a division becomes effective, all of
30 the following apply:

1 (1) If the dividing association is to survive the
2 division:

3 (i) It continues to exist.

4 (ii) Its public organic record, if any, is amended
5 as provided in the statement of division.

6 (iii) Its private organic rules that are to be in
7 record form, if any, are amended to the extent provided
8 in the plan of division.

9 (2) If the dividing association is not to survive the
10 division, the dividing association ceases to exist.

11 (3) With respect to each new association, all of the
12 following apply:

13 (i) It comes into existence.

14 (ii) It holds any property allocated to it as the
15 successor to the dividing association, and not by
16 transfer, whether directly or indirectly, or by operation
17 of law.

18 (iii) Its public organic record, if any, and private
19 organic rules are effective.

20 (iv) If it is a limited liability partnership, its
21 statement of registration is effective.

22 (v) If it is a limited liability limited partnership
23 and is not using the alternative procedure in section
24 8201(f) (relating to scope), its statement of
25 registration is effective.

26 (vi) If it is an electing partnership, its statement
27 of election is effective.

28 (4) Property of the dividing association:

29 (i) That is allocated by the plan of division
30 either:

1 (A) vests in the new associations as provided in
2 the plan of division; or

3 (B) remains vested in the dividing association.

4 (ii) That is not allocated by the plan of division:

5 (A) remains vested in the dividing association,
6 if the dividing association survives the division; or

7 (B) is allocated to and vests equally in the
8 resulting associations as tenants in common, if the
9 dividing association does not survive the division.

10 (iii) Vests as provided in this paragraph without
11 transfer, reversion or impairment.

12 (5) A resulting association to which a cause of action
13 is allocated as provided in paragraph (4) may be substituted
14 or added in any pending action or proceeding to which the
15 dividing association is a party at the effective time of the
16 division.

17 (6) The liabilities of the dividing association are
18 allocated between or among the resulting associations as
19 provided in section 368 (relating to allocation of
20 liabilities in division).

21 (7) The interests in the dividing association that are
22 to be converted or canceled in the division are converted or
23 canceled, and the interest holders of those interests are
24 entitled only to the rights provided to them under the plan
25 of division and to any dissenters rights they may have
26 pursuant to section 317 (relating to contractual dissenters
27 rights in entity transactions) or 363(c) (relating to
28 approval of division).

29 (b) Dividing association not dissolved.--Except as provided
30 in the organic law or organic rules of the dividing association,

1 the division does not give rise to any rights that an interest
2 holder, governor or third party would have upon a dissolution,
3 liquidation or winding up of the dividing association.

4 (c) New interest holder liability.--When a division becomes
5 effective, a person that did not have interest holder liability
6 with respect to the dividing association and that becomes
7 subject to interest holder liability with respect to an
8 association as a result of the division has interest holder
9 liability only to the extent provided by the organic law of the
10 association and only for those liabilities that arise after the
11 division becomes effective.

12 (d) Prior interest holder liability.--When a division
13 becomes effective, the interest holder liability of a person
14 that ceases to hold an interest in the dividing association that
15 is a domestic entity with respect to which the person had
16 interest holder liability is as follows:

17 (1) The division does not discharge any interest holder
18 liability under the organic law of the domestic entity to the
19 extent the interest holder liability arose before the
20 division became effective.

21 (2) The person does not have interest holder liability
22 under the organic law of the domestic entity for any debt,
23 obligation or other liability that arises after the division
24 becomes effective.

25 (3) The organic law of the domestic entity continues to
26 apply to the release, collection or discharge of any interest
27 holder liability preserved under paragraph (1) as if the
28 division had not occurred.

29 (4) The person has whatever rights of contribution from
30 any other person as are provided by other law or the organic

1 law or organic rules of the domestic entity with respect to
2 any interest holder liability preserved by paragraph (1) as
3 if the division had not occurred.

4 (e) Registration of registered foreign association.--When a
5 division of a registered foreign association in which at least
6 one of the resulting associations is a domestic entity becomes
7 effective, the registration to do business of the dividing
8 association is canceled if it does not survive the division.

9 (f) Real property.--Except with regard to the real property
10 of a dividing association that is a domestic nonprofit
11 corporation, the allocation of any fee or freehold interest or
12 leasehold having a remaining term of 30 years or more in any
13 tract or parcel of real property situate in this Commonwealth
14 owned by a dividing association, including property owned by a
15 foreign association dividing solely under the law of another
16 jurisdiction, to a new association is not effective until one of
17 the following documents is filed in the office for the recording
18 of deeds of the county, or each of them, in which the tract or
19 parcel is situated:

20 (1) A deed, lease or other instrument of confirmation
21 describing the tract or parcel.

22 (2) A duly executed duplicate original copy of the
23 statement of division.

24 (3) A copy of the statement of division certified by the
25 department.

26 (4) A declaration of acquisition stating the value of
27 real estate holdings in the county of the new association as
28 an acquired association.

29 (g) Secured collateral.--The allocation to a new association
30 of property that is collateral covered by an effective financing

1 statement shall not be effective until a new financing statement
2 naming the new association as a debtor is effective under
3 Article 9 of the Uniform Commercial Code as enacted in the
4 relevant jurisdiction.

5 (h) Vehicles.--The provisions of 75 Pa.C.S. § 1114 (relating
6 to transfer of vehicle by operation of law) shall not be
7 applicable to an allocation of ownership of any motor vehicle,
8 trailer or semitrailer to a new association under this section
9 or under a similar law of any other jurisdiction, but any such
10 allocation shall be effective only upon compliance with the
11 requirements of 75 Pa.C.S. § 1116 (relating to issuance of new
12 certificate following transfer), unless the dividing association
13 is a domestic nonprofit corporation.

14 (i) Disposition of interests.--Unless otherwise provided in
15 the plan of division, the interests and any securities or
16 obligations of each new association shall be distributed to:

17 (1) the dividing association, if it survives the
18 division; or

19 (2) the holders of the common or other residuary
20 interest of the dividing association that do not assert
21 dissenters rights, pro rata, if the dividing association does
22 not survive the division.

23 § 368. Allocation of liabilities in division.

24 (a) General rule.--Except as provided in this section, when
25 a division becomes effective, a resulting association is
26 responsible:

27 (1) Individually for the liabilities the resulting
28 association undertakes or incurs in its own name after the
29 division.

30 (2) Individually for the liabilities of the dividing

1 association that are allocated to or remain the liability of
2 that resulting association to the extent specified in the
3 plan of division.

4 (3) Jointly and severally with the other resulting
5 associations for the liabilities of the dividing association
6 that are not allocated by the plan of division.

7 (b) Joint and several liability.--If an allocation of
8 property or liabilities in a division is ineffective or voidable
9 pursuant to fraudulent transfer or similar law, both of the
10 following apply:

11 (1) The allocations of liabilities in the plan of
12 division are ineffective and the liabilities of the dividing
13 association become liabilities of all of the resulting
14 associations, jointly and severally.

15 (2) The validity and effectiveness of the division are
16 not affected thereby.

17 (c) Breach of obligation.--If a division breaches an
18 obligation of the dividing association, all of the resulting
19 associations are liable, jointly and severally, for the breach,
20 but the validity and effectiveness of the division are not
21 affected thereby.

22 (d) Application of fraudulent transfer law.--In applying the
23 law governing fraudulent transfers to a division:

24 (1) The law applies to the dividing association as
25 follows:

26 (i) If it does not survive the division, it is not
27 subject to that law.

28 (ii) If it survives the division, it is subject to
29 that law only in its capacity as a resulting association.

30 (2) The law applies to each resulting association as

1 follows:

2 (i) The association is treated as a debtor.

3 (ii) The liabilities allocated to the association
4 are treated as an obligation incurred by the debtor.

5 (iii) The association is treated as not having
6 received a reasonably equivalent value in exchange for
7 incurring the obligation.

8 (iv) The property allocated to the association is
9 treated as remaining property.

10 (e) Distribution tests not applicable.--A direct or indirect
11 allocation of property or liabilities in a division is not a
12 distribution for purposes of the organic law of the dividing
13 association or any of the resulting associations.

14 (f) Liens and other charges.--Liens, security interests and
15 other charges on the property of the dividing association are
16 not impaired by the division, notwithstanding any otherwise
17 enforceable allocation of liabilities of the dividing
18 association.

19 (g) Security agreements.--If the dividing association is
20 bound by a security agreement governed by Article 9 of the
21 Uniform Commercial Code as enacted in any jurisdiction and the
22 security agreement provides that the security interest attaches
23 to after-acquired collateral, each resulting association is
24 bound by the security agreement.

25 (h) Creditors and guarantors.--An allocation of a liability
26 does not:

27 (1) Affect the rights under other law of a creditor owed
28 payment of the liability or performance of the obligation
29 that creates the liability, except that those rights are
30 available only against an association responsible for the

1 liability or obligation under this section.

2 (2) Release or reduce the obligation of a surety or
3 guarantor of the liability or obligation.

4 (i) Regulatory approvals.--The conditions in this section
5 for freeing one or more of the resulting associations from the
6 liabilities of the dividing association and for allocating some
7 or all of the liabilities of the dividing association shall be
8 conclusively deemed to have been satisfied if the plan of
9 division has been approved by the Department of Banking and
10 Securities, the Insurance Department or the Pennsylvania Public
11 Utility Commission in a final order issued after August 21,
12 2001, that is not subject to further appeal.

13 (j) Taxes.--Any taxes, interest, penalties and public
14 accounts of the Commonwealth claimed against the dividing
15 association that are settled, assessed or determined prior to or
16 after the division shall be the liability of all of the
17 resulting associations AND, TOGETHER WITH INTEREST THEREON, <--
18 SHALL BE A LIEN AGAINST THE FRANCHISES AND PROPERTY OF EACH
19 RESULTING ASSOCIATION. Upon the application of the dividing
20 association, the Department of Revenue, with the concurrence of
21 the Department of Labor and Industry, shall release one or more,
22 but less than all, of the resulting associations from liability
23 and liens for all taxes, interest, penalties and public accounts
24 of the dividing association due the Commonwealth for periods
25 prior to the effective date of the division if those departments
26 are satisfied that the public revenues will be adequately
27 secured.

28 SUBCHAPTER G

29 DOMESTICATION

30 Sec.

1 371. Domestication authorized.

2 372. Plan of domestication.

3 373. Approval of domestication.

4 374. Amendment or abandonment of plan of domestication.

5 375. Statement of domestication; effectiveness.

6 376. Effect of domestication.

7 § 371. Domestication authorized.

8 (a) Domestic entities.--Except as provided in section 318
9 (relating to excluded entities and transactions), by complying
10 with this chapter, a domestic entity may become a domestic
11 entity of the same type in a foreign jurisdiction if the
12 domestication is authorized by the law of the foreign
13 jurisdiction.

14 (b) Foreign entities.--By complying with the applicable
15 provisions of this subchapter, a foreign entity may become a
16 domestic entity of the same type in this Commonwealth if this
17 title provides for the formation of that type of entity.

18 (c) Cross reference.--See section 314 (relating to
19 regulatory conditions and required notices and approvals).

20 § 372. Plan of domestication.

21 (a) General rule.--A domestic entity may become a foreign
22 entity of the same type by approving a plan of domestication.
23 The plan shall be in record form and contain all of the
24 following:

25 (1) The name and type of the domesticating entity.

26 (2) The name and jurisdiction of formation of the
27 domesticated entity.

28 (3) The manner, if any, of canceling or converting those
29 interests in the domesticating entity, if any, that are to
30 receive special treatment as authorized by and subject to

1 section 329 (relating to special treatment of interest
2 holders).

3 (4) The proposed public organic record of the
4 domesticated entity if it is a filing entity.

5 (5) The full text of the private organic rules of the
6 domesticated entity that are proposed to be in record form.

7 (6) The other terms and conditions of the domestication.

8 (7) Any other provision required by:

9 (i) law of this Commonwealth;

10 (ii) the law of the jurisdiction of formation of the
11 foreign domesticated entity; or

12 (iii) the organic rules of the domesticating entity.

13 (b) Optional contents.--In addition to the requirements of
14 subsection (a), a plan of domestication may contain any other
15 provision not prohibited by law.

16 (c) Terms of interests.--Except as provided in the plan of
17 domestication pursuant to section 329, the terms of the
18 interests in the domesticated entity and the rights of the
19 interest holders in the domesticated entity shall be
20 substantially the same as the terms of the interests and the
21 rights of the interest holders in the domesticating entity,
22 except to the extent a different term or right is required by a
23 provision of the organic law of the domesticated entity that
24 cannot be varied in its organic rules.

25 (d) Cross reference.--See section 316(c) (relating to
26 contents of plan).

27 § 373. Approval of domestication.

28 (a) Approval by domestic entities.--A plan of domestication
29 in which the domesticating entity is a domestic entity is not
30 effective unless it has been approved by the domestic entity in

1 accordance with the applicable provisions of Subchapter B
2 (relating to approval of entity transactions).

3 (b) Approval by foreign entities.--A plan of domestication
4 in which the domesticating entity is a foreign entity is not
5 effective unless it has been approved in one of the following
6 ways:

7 (1) In accordance with the law of the jurisdiction of
8 formation of the foreign entity.

9 (2) By at least a majority of the votes cast with
10 respect to approval of the domestication by all interest
11 holders of the foreign entity entitled to vote generally on a
12 merger to which the foreign entity is a party if the law of
13 the foreign entity's jurisdiction of formation does not
14 provide for a domestication of the foreign entity.

15 (c) Cross references.--See sections 317 (relating to
16 contractual dissenters rights in entity transactions) and 329
17 (relating to special treatment of interest holders).
18 § 374. Amendment or abandonment of plan of domestication.

19 (a) Approval of amendment.--A plan of domestication in which
20 the domesticating entity is a domestic entity may be amended in
21 one of the following ways:

22 (1) In the same manner as the plan was approved, if the
23 plan does not provide for the manner in which it may be
24 amended.

25 (2) By the governors or interest holders of the domestic
26 entity in the manner provided in the plan, but an interest
27 holder that was entitled to vote on or consent to approval of
28 the plan is entitled to vote on or consent to any amendment
29 of the plan that will change any of the following:

30 (i) The amount or kind of interests, securities,

1 obligations, money, other property, rights to acquire
2 interests or securities, or any combination of the
3 foregoing, to be received by any of the interest holders
4 of the domesticating entity under the plan.

5 (ii) The public organic record, if any, or private
6 organic rules of the domesticated entity that will be in
7 effect immediately after the domestication becomes
8 effective, except for changes that do not require
9 approval of the interest holders of the domesticated
10 entity under its organic law or organic rules.

11 (iii) Any other terms or conditions of the plan, if
12 the change would adversely affect the interest holder in
13 any material respect.

14 (b) Approval of abandonment.--After a plan of domestication
15 has been approved by a domestic entity that is the domesticating
16 entity and before a statement of domestication becomes
17 effective, the plan may be abandoned as provided in the plan.
18 Unless prohibited by the plan, a domestic entity that is the
19 domesticating entity may abandon the plan in the same manner as
20 the plan was approved.

21 (c) Statement of abandonment.--If a plan of domestication is
22 abandoned after a statement of domestication has been delivered
23 to the department for filing and before the statement becomes
24 effective, a statement of abandonment UNDER SECTION 141 <--
25 (RELATING TO ABANDONMENT OF FILING BEFORE EFFECTIVENESS), signed
26 by the domesticating entity, must be delivered to the department
27 for filing before the time the statement of domestication
28 becomes effective. ~~The statement of abandonment shall take~~ <--
29 ~~effect on filing, and the domestication shall be abandoned and~~
30 ~~shall not become effective. The statement of abandonment shall~~

1 contain all of the following:

2 (1) The name of the domesticating entity.

3 (2) The date on which the statement of domestication was
4 delivered to the department for filing.

5 (3) A statement that the domestication has been
6 abandoned in accordance with this section.

7 (d) Cross references. See sections 134 (relating to
8 docketing statement) and 135 (relating to requirements to be met
9 by filed documents).

10 § 375. Statement of domestication; effectiveness.

11 (a) General rule.--A statement of domestication shall be
12 signed by the domesticating entity and delivered to the
13 department for filing along with the certificates, if any,
14 required by section 139 (relating to tax clearance of certain
15 fundamental transactions).

16 (b) Contents.--A statement of domestication shall contain
17 all of the following:

18 (1) With respect to the domesticating entity:

19 (i) its name;

20 (ii) its jurisdiction of formation;

21 (iii) its type;

22 (iv) the date on which it was first created,
23 incorporated, formed or otherwise came into existence;

24 (v) if it is a domestic filing entity, domestic
25 limited liability partnership or registered foreign
26 association, the address of its registered office,
27 including street and number, if any, in this
28 Commonwealth, subject to section 109 (relating to name of
29 commercial registered office provider in lieu of
30 registered address);

1 (vi) if it is a domestic entity that is not a
2 domestic filing entity or limited liability partnership,
3 the address, including street and number, if any, of its
4 principal office; and

5 (vii) if it is a nonregistered foreign association,
6 the address, including street and number, if any, of:

7 (A) its registered or similar office, if any,
8 required to be maintained by the law of its
9 jurisdiction of formation; or

10 (B) if it is not required to maintain a
11 registered or similar office, its principal office.

12 (2) With respect to the domesticated entity:

13 (i) its name;

14 (ii) its jurisdiction of formation;

15 (iii) its type;

16 (iv) if it is a domestic filing entity, domestic
17 limited liability partnership or registered foreign
18 association, the address of its registered office,
19 including street and number, if any, in this
20 Commonwealth, subject to section 109;

21 (v) if it is a domestic entity that is not a
22 domestic filing entity or limited liability partnership,
23 the address, including street and number, if any, of its
24 principal office; and

25 (vi) if it is a nonregistered foreign association,
26 the address, including street and number, if any, of:

27 (A) its registered or similar office, if any,
28 required to be maintained by the law of its
29 jurisdiction of formation; or

30 (B) if it is not required to maintain a

1 registered or similar office, its principal office.

2 (3) If the statement of domestication is not to be
3 effective on filing, the later date or date and time on which
4 it will become effective.

5 (4) If the domesticating entity is a domestic entity, a
6 statement that the plan of domestication was approved in
7 accordance with Subchapter B (relating to approval of entity
8 transactions) or, if the domesticating entity is a foreign
9 entity, a statement that the domestication was approved in
10 accordance with section 373(b) (relating to approval of
11 domestication).

12 (5) If the domesticated entity is a domestic filing
13 entity, its public organic record as an attachment. The
14 public organic record does not need to state the name or
15 address of an incorporator of a corporation, organizer of a
16 limited liability company or similar person with respect to
17 any other type of entity.

18 (6) If the domesticated entity is a domestic limited
19 liability partnership or a domestic limited liability limited
20 partnership that is not using the alternative procedure in
21 section 8201(f) (relating to scope), its statement of
22 registration as an attachment.

23 (7) If the domesticated entity is an electing
24 partnership, its statement of election as an attachment.

25 (8) If the domesticating entity is to be a domestic
26 entity in both this Commonwealth and the foreign
27 jurisdiction, a statement to that effect.

28 (c) Other provisions.--In addition to the requirements of
29 subsection (b), a statement of domestication may contain any
30 other provision not prohibited by law.

1 (d) Public organic record of new domestic entity.--If the
2 domesticated entity is a domestic entity, its public organic
3 record, if any, must satisfy the requirements of the law of this
4 Commonwealth, except that it does not need to be signed and may
5 omit any provision that is not required to be included in a
6 restatement of the public organic record.

7 (e) Filing of plan.--A plan of domestication that is signed
8 by a domesticating entity that is a domestic entity and meets
9 all of the requirements of subsection (b) may be delivered to
10 the department for filing instead of a statement of
11 domestication and on filing has the same effect. If a plan of
12 domestication is filed as provided in this subsection,
13 references in this chapter to a statement of domestication refer
14 to the plan of domestication filed under this subsection.

15 (f) Effectiveness of domestication.--A domestication in
16 which the domesticated entity is a domestic entity is effective
17 when the statement of domestication is effective under section
18 136(c) (relating to processing of documents by Department of
19 State). A domestication in which the domesticated entity is a
20 foreign entity becomes effective on the later of:

21 (1) the date and time provided by the organic law of the
22 domesticated entity; or

23 (2) when the statement of domestication is effective.

24 (g) Cross references.--See sections 134 (relating to
25 docketing statement) and 135 (relating to requirements to be met
26 by filed documents).

27 § 376. Effect of domestication.

28 (a) General rule.--When a domestication becomes effective,
29 all of the following apply:

30 (1) The domesticated entity is:

1 (i) organized under and subject to the organic law
2 of the domesticated entity;

3 (ii) the same entity without interruption as the
4 domesticating entity;

5 (iii) deemed to have commenced its existence on the
6 date the domesticating entity commenced its existence in
7 the jurisdiction in which the domesticating entity was
8 first created, formed, incorporated or otherwise came
9 into existence; and

10 (iv) also organized under and subject to the organic
11 law of the domesticating entity if the statement of
12 domestication includes the statement provided for in
13 section 375(b) (8) (relating to statement of
14 domestication; effectiveness).

15 (2) All property of the domesticating entity continues
16 to be vested in the domesticated entity without transfer,
17 reversion or impairment.

18 (3) All debts, obligations and other liabilities of the
19 domesticating entity continue as debts, obligations and other
20 liabilities of the domesticated entity.

21 (4) Except as provided by law ~~or the plan of~~ <--
22 domestication, all of the rights, privileges, immunities, AND <--
23 powers and purposes of the domesticating entity remain <--
24 CONTINUE TO BE VESTED WITHOUT CHANGE in the domesticated <--
25 entity.

26 (5) The name of the domesticated entity may be
27 substituted for the name of the domesticating entity in any
28 pending action or proceeding.

29 (6) If the domesticated entity is a filing entity, its
30 public organic record is effective and is binding on its

1 interest holders.

2 (7) If the domesticated entity is a domestic limited
3 liability partnership or a limited liability limited
4 partnership that is not using the alternative procedure in
5 section 8201(f) (relating to scope), its statement of
6 registration is effective.

7 (8) If the domesticated entity is an electing
8 partnership, its statement of election is effective.

9 (9) The private organic rules of the domesticated entity
10 that are to be in record form, if any, approved as part of
11 the plan of domestication are effective.

12 (10) The interest holders in the domesticating entity
13 are interest holders in the domesticated entity except to the
14 extent that an interest holder does not receive interests in
15 the domesticated entity pursuant to a provision in the plan
16 of domestication for special treatment pursuant to section
17 329 (relating to special treatment of interest holders).

18 (b) No dissolution rights.--Except as otherwise provided in
19 the organic law or organic rules of a domestic domesticating
20 entity, the domestication does not give rise to any rights that
21 an interest holder, governor or third party would have upon a
22 dissolution, liquidation or winding up of the domesticating
23 entity.

24 (c) Collection of liabilities.--When a domestication becomes
25 effective, a foreign domesticated entity may be served with
26 process in this Commonwealth for the collection and enforcement
27 of any of its debts, obligations and other liabilities in
28 accordance with applicable law.

29 (d) New interest holder liability.--When a domestication
30 becomes effective, a person that becomes subject to interest

1 holder liability with respect to a domestic association as a
2 result of the domestication has interest holder liability only
3 to the extent provided by the organic law of the association and
4 only for those debts, obligations and other liabilities that
5 arise after the domestication is effective.

6 (e) Prior interest holder liability.--When a domestication
7 becomes effective, the following rules apply:

8 (1) The domestication does not discharge any interest
9 holder liability under the organic law of a domesticating
10 domestic entity to the extent the interest holder liability
11 arose before the domestication became effective.

12 (2) A person does not have interest holder liability
13 under the organic law of a domestic domesticating entity for
14 any debt, obligation or other liability that arises after the
15 domestication becomes effective.

16 (3) The organic law of a domestic domesticating entity
17 continues to apply to the release, collection or discharge of
18 any interest holder liability preserved under paragraph (1)
19 as if the domestication had not occurred.

20 (4) A person has whatever rights of contribution from
21 any other person as are provided by other law or the organic
22 rules of a domestic domesticating entity with respect to any
23 interest holder liability preserved under paragraph (1) as if
24 the domestication had not occurred.

25 (f) Service of process.--When a domestication becomes
26 effective, a foreign domesticated entity may be served with
27 process in this Commonwealth for the collection and enforcement
28 of any of its debts, obligations and other liabilities in
29 accordance with applicable law.

30 (g) No dissolution.--A domestication does not require a

1 domestic domesticating entity to liquidate, dissolve or wind up
2 its affairs and does not constitute or cause the liquidation or
3 dissolution of the entity.

4 (h) Taxes.--Any taxes, interest, penalties and public
5 accounts of the Commonwealth claimed against the domesticating
6 entity that are settled, assessed or determined prior to or
7 after the domestication shall be the liability of the
8 domesticated entity AND, TOGETHER WITH INTEREST THEREON, SHALL <--
9 BE A LIEN AGAINST THE FRANCHISES AND PROPERTY OF THE
10 DOMESTICATED ENTITY.

11 (i) Cross references.--See sections 416 (relating to
12 withdrawal deemed on certain transactions) and 417 (relating to
13 required withdrawal on certain transactions).

14 CHAPTER 4

15 FOREIGN ASSOCIATIONS

16 Subchapter

17 A. General Provisions

18 B. Registration

19 SUBCHAPTER A

20 GENERAL PROVISIONS

21 Sec.

22 401. Application of chapter.

23 402. Governing law.

24 403. Activities not constituting doing business.

25 § 401. Application of chapter.

26 (a) General rule.--Except as otherwise provided in this
27 section or in subsequent provisions of this chapter, this
28 chapter shall apply to all foreign associations.

29 (b) Application to foreign banking institutions.--The words
30 "foreign filing association" or "foreign association" in this

1 chapter include an association that, if a domestic association,
2 would be a banking institution or credit union. The term does
3 not include an interstate bank as defined in section 102 of the
4 act of November 30, 1965 (P.L.847, No.356), known as the Banking
5 Code of 1965.

6 (c) Domestic Federal financial association exclusion.--
7 Except as permitted by act of Congress, this chapter shall not
8 apply to:

9 (1) Any of the following institutions or similar
10 federally chartered institutions engaged in this Commonwealth
11 in activities similar to those conducted by banking
12 institutions or credit unions:

13 (i) National banking associations organized under
14 The National Bank Act (13 Stat. 99, 12 U.S.C. § 1 et
15 seq.).

16 (ii) Federal savings and loan associations and
17 Federal mutual savings banks organized under the Home
18 Owners' Loan Act (48 Stat. 128, 12 U.S.C. § 1461 et
19 seq.).

20 (iii) Federal credit unions organized under the
21 Federal Credit Union Act (48 Stat. 1216, 12 U.S.C. § 1751
22 et seq.).

23 (2) Any other Federal association intended by the
24 Congress to be treated for State law purposes as a domestic
25 association of this Commonwealth.

26 (d) Foreign insurance corporations.--A foreign insurance
27 corporation shall be subject to this chapter, except as provided
28 in section 402(e) (relating to governing law) or 411(g)
29 (relating to registration to do business in this Commonwealth).

30 (e) Government entities.--This chapter shall apply to and

1 the words "association" and "foreign association" shall include
2 a government or other sovereign, other than the Commonwealth or
3 any of its political subdivisions, and any governmental
4 corporation, agency or other entity thereof.

5 (f) Admitted foreign fraternal benefit society exclusion.--
6 This chapter shall not apply to any foreign corporation not-for-
7 profit licensed to transact business in this Commonwealth under
8 section 2455 of the act of May 17, 1921 (P.L.682, No.284), known
9 as The Insurance Company Law of 1921.

10 § 402. Governing law.

11 (a) General rule.--The law of the jurisdiction of formation
12 of a foreign association governs the following:

13 (1) The internal affairs of the association.

14 (2) The liability that a person has as an interest
15 holder or governor for a debt, obligation or other liability
16 of the association.

17 (3) The liability of a series or protected cell of a
18 foreign association.

19 (b) Effect of differences in law.--A foreign association is
20 not precluded from registering to do business in this
21 Commonwealth because of any difference between the law of the
22 jurisdiction of formation of the foreign association and the law
23 of this Commonwealth.

24 (c) Limitations on domestic associations applicable.--
25 Registration of a foreign association to do business in this
26 Commonwealth does not authorize the foreign association to
27 engage in any activities and affairs or exercise any power that
28 a domestic association of the same type may not engage in or
29 exercise in this Commonwealth.

30 (d) Equal rights and privileges of registered foreign

1 associations.--Except as otherwise provided by law, a registered
2 foreign association, so long as its registration to do business
3 is not terminated or canceled, shall enjoy the same rights and
4 privileges as a domestic entity and shall be subject to the same
5 liabilities, restrictions, duties and penalties now in force or
6 hereafter imposed on domestic entities, to the same extent as if
7 it had been formed under this title. A foreign insurance
8 corporation shall be deemed a registered foreign association
9 except as provided in subsection (e).

10 (e) Foreign insurance corporations.--A foreign insurance
11 corporation shall, insofar as it is engaged in the business of
12 writing insurance or reinsurance as principal, be subject to the
13 law of this Commonwealth regulating the conduct of the business
14 of insurance by a foreign insurance corporation in lieu of the
15 provisions of subsection (d) regarding its rights, privileges,
16 liabilities, restrictions and duties and the penalties to which
17 it may be subject.

18 (f) Agricultural lands.--Interests in agricultural land
19 shall be subject to the restrictions of, and escheatable as
20 provided by, the act of April 6, 1980 (P.L.102, No.39), referred
21 to as the Agricultural Land Acquisition by Aliens Law.

22 § 403. Activities not constituting doing business.

23 (a) General rule.--Activities of a foreign filing
24 association or foreign limited liability partnership that do not
25 constitute doing business in this Commonwealth under this
26 chapter shall include the following:

27 (1) Maintaining, defending, mediating, arbitrating or
28 settling an action or proceeding.

29 (2) Carrying on any activity concerning its internal
30 affairs, including holding meetings of its interest holders

1 or governors.

2 (3) Maintaining accounts in financial institutions.

3 (4) Maintaining offices or agencies for the transfer,
4 exchange and registration of securities of the association or
5 maintaining trustees or depositories with respect to the
6 securities.

7 (5) Selling through independent contractors.

8 (6) Soliciting or obtaining orders by any means if the
9 orders require acceptance outside of this Commonwealth before
10 the orders become contracts.

11 (7) Creating or acquiring indebtedness, mortgages or
12 security interests in property.

13 (8) Securing or collecting debts or enforcing mortgages
14 or security interests in property securing the debts and
15 holding, protecting or maintaining property so acquired.

16 (9) Conducting an isolated transaction that is not in
17 the course of similar transactions.

18 (10) Owning, without more, property.

19 (11) Doing business in interstate or foreign commerce.

20 (b) Participation in other associations.--Being an interest
21 holder or governor of a foreign association that does business
22 in this Commonwealth shall not by itself constitute doing
23 business in this Commonwealth.

24 (c) Applicability.--This section shall not apply in
25 determining the contacts or activities that may subject a
26 foreign filing association or foreign limited liability
27 partnership to service of process, taxation or regulation under
28 law of this Commonwealth other than this title.

29 SUBCHAPTER B

30 REGISTRATION

1 Sec.

2 411. Registration to do business in this Commonwealth.

3 412. Foreign registration statement.

4 413. Amendment of foreign registration statement.

5 414. Noncomplying name of foreign association.

6 415. Voluntary withdrawal of registration.

7 416. Withdrawal deemed on certain transactions.

8 417. Required withdrawal on certain transactions.

9 418. Transfer of registration.

10 419. Termination of registration.

11 § 411. Registration to do business in this Commonwealth.

12 (a) Registration required.--Except as provided in section
13 401 (relating to application of chapter) or subsection (g), a
14 foreign filing association or foreign limited liability
15 partnership may not do business in this Commonwealth until it
16 registers with the department under this chapter.

17 (b) Penalty for failure to register.--A foreign filing
18 association or foreign limited liability partnership doing
19 business in this Commonwealth may not maintain an action or
20 proceeding in this Commonwealth unless it is registered to do
21 business under this chapter.

22 (c) Contracts and acts not impaired by failure to
23 register.--The failure of a foreign filing association or
24 foreign limited liability partnership to register to do business
25 in this Commonwealth does not impair the validity of a contract
26 or act of the foreign filing association or foreign limited
27 liability partnership or preclude it from defending an action or
28 proceeding in this Commonwealth.

29 (d) Limitations on liability preserved.--A limitation on the
30 liability of an interest holder or governor of a foreign filing

1 association or of a partner of a foreign limited liability
2 partnership is not waived solely because the foreign filing
3 association or foreign limited liability partnership does
4 business in this Commonwealth without registering.

5 (e) Governing law not affected.--Section 402 (relating to
6 governing law) applies even if a foreign association fails to
7 register under this chapter.

8 (f) Registered office.--Subject to section 109 (relating to
9 name of commercial registered office provider in lieu of
10 registered address), every registered foreign association shall
11 have, and continuously maintain, in this Commonwealth a
12 registered office, which may but need not be the same as its
13 place of business in this Commonwealth.

14 (g) Foreign insurance corporations.--A foreign insurance
15 corporation is not required to register under this chapter.
16 § 412. Foreign registration statement.

17 (a) General rule.--To register to do business in this
18 Commonwealth, a foreign filing association or foreign limited
19 liability partnership must deliver a foreign registration
20 statement to the department for filing. The statement must be
21 signed by the association and state all of the following:

22 (1) Both:

23 (i) The name of the foreign filing association or
24 foreign limited liability partnership.

25 (ii) If the name does not comply with section 202
26 (relating to requirements for names generally), an
27 alternate name adopted pursuant to section 414(a)
28 (relating to noncomplying name of foreign association).

29 (2) The type of association and, if it is a foreign
30 limited partnership, whether it is a foreign limited

1 liability limited partnership.

2 (3) The association's jurisdiction of formation.

3 (4) The street and mailing addresses of the
4 association's principal office and, if the law of the
5 association's jurisdiction of formation requires the
6 association to maintain an office in that jurisdiction, the
7 street and mailing addresses of the office.

8 (5) Subject to section 109 (relating to name of
9 commercial registered office provider in lieu of registered
10 address), the address, including street and number, if any,
11 of its registered office in this Commonwealth.

12 (6) If the association may have one or more series, a
13 statement to that effect.

14 (b) Qualification or registration under former statutes.--
15 The effect of a foreign association qualifying or registering to
16 do business under prior provisions of law shall be as follows:

17 (1) With respect to corporations for profit, the
18 following apply:

19 (i) If a foreign corporation for profit was admitted
20 to do business in this Commonwealth by the filing of a
21 power of attorney and statement under the former act of
22 June 8, 1911 (P.L.710, No.283), entitled "An act to
23 regulate the doing of business in this Commonwealth by
24 foreign corporations; the registration thereof and
25 service of process thereon; and providing punishment and
26 penalties for the violation of its provisions; and
27 repealing previous legislation on the subject," on July
28 1, 2015, the power of attorney and statement shall be
29 deemed a filed registration statement under this chapter.
30 The corporation shall include in its first amended

1 registration statement under this chapter the information
2 required by this chapter to be set forth in a
3 registration statement.

4 (ii) A certificate of authority issued under the
5 former provisions of the act of May 5, 1933 (P.L.364,
6 No.106), known as the Business Corporation Law of 1933,
7 or Subpart B of Part II (relating to business
8 corporations) that is in effect on July 1, 2015, shall be
9 deemed to be a registration statement under this chapter
10 and shall be deemed not to contain any reference to the
11 kind of business that the corporation proposes to do in
12 this Commonwealth.

13 (iii) A certificate of authority issued under the
14 former provisions of Subchapter B of Chapter 41 (relating
15 to qualification) that is in effect on July 1, 2015,
16 shall be deemed to be a registration statement under this
17 chapter.

18 (2) With respect to corporations not-for-profit, the
19 following apply:

20 (i) If a foreign corporation not-for-profit was
21 admitted to do business in this Commonwealth by the
22 filing of a power of attorney and statement under the
23 former act of June 8, 1911 (P.L.710, No.283), on July 1,
24 2015, the power of attorney and statement shall be deemed
25 a filed registration statement under this chapter. The
26 corporation shall include in its first amended
27 registration statement under this chapter the information
28 required by this chapter to be set forth in a
29 registration statement.

30 (ii) A certificate of authority issued under the

1 former provisions of the act of May 5, 1933 (P.L.289,
2 No.105), known as the Nonprofit Corporation Law of 1933,
3 or the former provisions of Article B of Part III known
4 as the Nonprofit Corporation Law of 1972, as added by the
5 act of November 15, 1972 (P.L.1063, No.271), that is in
6 effect on July 1, 2015, shall be deemed to be a
7 registration statement under this chapter and shall be
8 deemed not to contain any reference to the kind of
9 business that the corporation proposes to do in this
10 Commonwealth.

11 (iii) A certificate of authority issued under the
12 former provisions of Subchapter B of Chapter 61 (relating
13 to qualification) that is in effect on July 1, 2015,
14 shall be deemed to be a registration statement under this
15 chapter.

16 (3) With respect to limited partnerships, the following
17 apply:

18 (i) An application for registration filed under the
19 former provisions of 59 Pa.C.S. § 563 (relating to
20 registration) that is in effect on July 1, 2015, shall be
21 deemed to be a registration statement under this chapter
22 and shall be deemed not to contain any reference to:

23 (A) the general character of the business the
24 limited partnership proposes to transact in this
25 Commonwealth; or

26 (B) the names and addresses of the limited
27 partners.

28 (ii) An application for registration filed under the
29 former provisions of section 8582 (relating to
30 registration) that is in effect on July 1, 2015, shall be

1 deemed to be a registration statement under this chapter
2 and shall be deemed not to contain:

3 (A) any reference to the address of the office
4 at which is kept a list of the names and addresses of
5 the limited partners and their capital contributions;

6 or

7 (B) an undertaking to keep those records until
8 the registration of the limited partnership in this
9 Commonwealth is canceled or withdrawn.

10 (4) An application for registration filed by a limited
11 liability company under the former provisions of section 8981
12 (relating to foreign limited liability companies) that is in
13 effect on July 1, 2015, shall be deemed to be a registration
14 statement under this chapter.

15 (5) A certificate of authority issued to a business
16 trust under the former provisions of section 9507 (relating
17 to foreign business trusts) that is in effect on July 1,
18 2015, shall be deemed to be a registration statement under
19 this chapter.

20 (c) Cross references.--See:

21 Section 134 (relating to docketing statement).

22 Section 135 (relating to requirements to be met by filed
23 documents).

24 Section 4124 (relating to advertisement of registration
25 to do business).

26 Section 6124 (relating to advertisement of registration
27 to do business).

28 § 413. Amendment of foreign registration statement.

29 (a) General rule.--A registered foreign association shall
30 deliver to the department for filing an amendment to its foreign

1 registration statement if there is a change in any of the
2 following:

3 (1) The name of the association.

4 (2) The type of association, including, if it is a
5 foreign limited partnership, whether the association became
6 or ceased to be a foreign limited liability limited
7 partnership.

8 (3) The association's jurisdiction of formation.

9 (4) An address required by section 412(a)(4) (relating
10 to foreign registration statement).

11 (5) Its registered office.

12 (6) The authority of the association to have one or more
13 series.

14 (b) Contents of amendment.--An amendment of a foreign
15 registration statement shall be signed by the registered foreign
16 association and state all of the following:

17 (1) The name under which the registered foreign
18 association is registered to do business in this
19 Commonwealth.

20 (2) Subject to section 109 (relating to name of
21 commercial registered office provider in lieu of registered
22 address), the address, including street and number, if any,
23 of its registered office in this Commonwealth.

24 (3) If the amendment is not to be effective on filing,
25 the later date or date and time on which it will become
26 effective.

27 (4) The information that is to be changed.

28 (c) Cross references.--See sections 134 (relating to
29 docketing statement) and 135 (relating to requirements to be met
30 by filed documents).

1 § 414. Noncomplying name of foreign association.

2 (a) General rule.--A foreign filing association or foreign
3 limited liability partnership whose name does not comply with
4 Subchapter A of Chapter 2 (relating to names) may not register
5 to do business in this Commonwealth until it adopts, for the
6 purpose of doing business in this Commonwealth, an alternate
7 name that complies with Subchapter A of Chapter 2. A foreign
8 association that registers under an alternate name under this
9 subsection is not required to comply with 54 Pa.C.S. Ch. 3
10 (relating to fictitious names) with respect to the alternate
11 name. After registering to do business in this Commonwealth
12 under an alternate name, a foreign association shall do business
13 in this Commonwealth under any of the following:

14 (1) The alternate name.

15 (2) Its proper name under the law of its jurisdiction of
16 formation, with the addition of the name of its jurisdiction
17 of formation.

18 (3) A name the foreign association is authorized to use
19 under 54 Pa.C.S. Ch. 3.

20 (b) Change of name.--If a registered foreign association
21 changes its name to one that does not comply with Subchapter A
22 of Chapter 2, it may not do business in this Commonwealth until
23 it complies with subsection (a) by amending its registration to
24 adopt an alternate name that complies with Subchapter A of
25 Chapter 2.

26 (c) Filed documents.--If a registered foreign association
27 adopts an alternate name under subsection (a), the association
28 shall use the alternate name in response to a requirement in
29 this title that a document delivered to the department for
30 filing state the name of the association.

1 § 415. Voluntary withdrawal of registration.

2 (a) General rule.--A registered foreign association may
3 withdraw its registration by delivering a statement of
4 withdrawal to the department for filing. The statement of
5 withdrawal shall be signed by the association and state all of
6 the following:

7 (1) The name of the association and its jurisdiction of
8 formation.

9 (2) Subject to section 109 (relating to name of
10 commercial registered office provider in lieu of registered
11 address), the address, including street and number, if any,
12 of its registered office in this Commonwealth.

13 (3) That the association is not doing business in this
14 Commonwealth.

15 (4) That the association withdraws its registration to
16 do business in this Commonwealth.

17 (b) Filing.--The statement of withdrawal and the
18 certificates required by section 139 (relating to tax clearance
19 of certain fundamental transactions) shall be delivered to the
20 department for filing and shall take effect on filing.

21 (c) Cross references.--See sections 134 (relating to
22 docketing statement) and 135 (relating to requirements to be met
23 by filed documents).

24 § 416. Withdrawal deemed on certain transactions.

25 (a) Merger.--A registered foreign association that merges
26 into a domestic filing entity or domestic limited liability
27 partnership shall be deemed to have withdrawn its registration
28 on the effective date of the merger.

29 (b) Conversion.--A registered foreign association that
30 converts to any type of domestic filing entity or to a domestic

1 limited liability partnership shall be deemed to have withdrawn
2 its registration on the effective date of the conversion.

3 (c) Domestication.--A registered foreign association that
4 domesticates in this Commonwealth as a domestic filing entity or
5 a domestic limited liability partnership shall be deemed to have
6 withdrawn its registration on the effective date of the
7 domestication.

8 § 417. Required withdrawal on certain transactions.

9 (a) Application of section.--This section shall apply to a
10 registered foreign association that has been:

11 (1) a nonsurviving party to a merger in which the
12 survivor is a nonregistered foreign association;

13 (2) a dividing association which did not survive the
14 division;

15 (3) dissolved and completed winding up;

16 (4) converted to a domestic or foreign nonfiling
17 association other than a limited liability partnership; or

18 (5) the domesticating entity in a domestication in which
19 the domesticated entity is a domestic or foreign nonfiling
20 association other than a limited liability partnership.

21 (b) Statement of withdrawal.--A registered foreign
22 association described in subsection (a) shall deliver a
23 statement of withdrawal and the certificates required by section
24 139 (relating to tax clearance of certain fundamental
25 transactions) to the department for filing. The statement shall
26 be signed by the dissolved or converted association and state as
27 follows:

28 (1) In the case of a foreign association that has
29 completed winding up, all of the following:

30 (i) The name under which the association is

1 registered to do business in this Commonwealth and its
2 jurisdiction of formation.

3 (ii) That the association withdraws its registration
4 to do business in this Commonwealth.

5 (2) In the case of a foreign association that has
6 converted to a domestic or foreign nonfiling association
7 other than a limited liability partnership, all of the
8 following:

9 (i) The name under which the association is
10 registered to do business in this Commonwealth and its
11 jurisdiction of formation.

12 (ii) The type of nonfiling association to which the
13 association has converted and its jurisdiction of
14 formation.

15 (iii) That the association withdraws its
16 registration to do business in this Commonwealth.

17 (3) In the case of a foreign association that has
18 domesticated as a domestic or foreign nonfiling association
19 other than a limited liability partnership in a jurisdiction
20 other than this Commonwealth, all of the following:

21 (i) The name under which the association is
22 registered to do business in this Commonwealth and its
23 jurisdiction of formation.

24 (ii) The jurisdiction of formation of the
25 domesticated association.

26 (iii) That the association withdraws its
27 registration to do business in this Commonwealth.

28 (c) Cross references.--See sections 134 (relating to
29 docketing statement) and 135 (relating to requirements to be met
30 by filed documents).

1 § 418. Transfer of registration.

2 (a) General rule.--If a registered foreign association
3 merges into a nonregistered foreign association or converts to a
4 foreign association required to register with the department to
5 do business in this Commonwealth, the association shall deliver
6 to the department for filing an application for transfer of
7 registration. The application shall be signed by the surviving
8 or converted association and state all of the following:

9 (1) The name of the association before the merger or
10 conversion.

11 (2) The type of association it was before the merger or
12 conversion.

13 (3) The name of the applicant association and, if the
14 name does not comply with section 202 (relating to
15 requirements for names generally), an alternate name adopted
16 in accordance with section 414(a) (relating to noncomplying
17 name of foreign association).

18 (4) The type of association of the applicant association
19 and its jurisdiction of formation.

20 (5) If different than the information for the foreign
21 association before the merger or conversion, all of the
22 following information regarding the applicant association:

23 (i) The street and mailing addresses of the
24 principal office of the association and, if the law of
25 the association's jurisdiction of formation requires it
26 to maintain an office in that jurisdiction, the street
27 and mailing addresses of that office.

28 (ii) Subject to section 109 (relating to name of
29 commercial registered office provider in lieu of
30 registered address), the address of its registered office

1 in this Commonwealth.

2 (b) Effect of application.--When an application for transfer
3 of registration takes effect, the registration of the registered
4 foreign association to do business in this Commonwealth is
5 transferred without interruption to the association into which
6 it has merged or to which it has been converted.

7 (c) Cross references.--See sections 134 (relating to
8 docketing statement) and 135 (relating to requirements to be met
9 by filed documents).

10 § 419. Termination of registration.

11 (a) General rule.--The department may terminate the
12 registration of a registered foreign association in the manner
13 provided in subsections (b) and (c) if the department finds that
14 the association:

15 (1) has not amended its registration when required by
16 section 413 (relating to amendment of foreign registration
17 statement); or

18 (2) has been administratively, voluntarily or
19 involuntarily dissolved under the law of its jurisdiction of
20 formation.

21 (b) Notice by department.--The department may terminate the
22 registration of a registered foreign association by taking both
23 of the following actions:

24 (1) Filing a notice of termination or noting the
25 termination in the records of the department.

26 (2) Delivering a copy of the notice or the information
27 in the notation to the association's registered office or, if
28 the association does not have a registered office, to the
29 association's principal office.

30 (c) Contents.--The notice shall state, or the information in

1 the notation under subsection (b) shall include, both of the
2 following:

3 (1) The effective date of the termination, which shall
4 be no less than 60 days after the date the department
5 delivers the copy.

6 (2) The grounds for termination under subsection (a).

7 (d) Effectiveness or cure.--The registration of a registered
8 foreign association to do business in this Commonwealth shall
9 cease on the effective date of the notice of termination or
10 notation under subsection (b), unless before that date the
11 association cures each ground for termination stated in the
12 notice or notation. If the association cures each ground, the
13 department shall file a record stating as such.

14 Section 10. Section 1103(a) introductory paragraph and the
15 definitions of "articles," "dissenters rights," "distribution,"
16 "foreign business corporation," "nonqualified foreign business
17 corporation," "plan," "qualified foreign business corporation"
18 and "registered corporation" of Title 15 are amended to read:
19 § 1103. Definitions.

20 (a) General definitions.--Subject to additional definitions
21 contained in subsequent provisions of this subpart that are
22 applicable to specific provisions of this subpart, the following
23 words and phrases when used in Part I (relating to preliminary
24 provisions) or in this subpart shall have the meanings given to
25 them in this section unless the context clearly indicates
26 otherwise:

27 * * *

28 "Articles." The original articles of incorporation, all
29 amendments thereof and any other articles, statements or
30 certificates permitted or required to be filed in the Department

1 of State by sections 108 (relating to change in location or
2 status of registered office provided by agent) and 138 (relating
3 to statement of correction), Chapter 3 (relating to entity
4 transactions) or this subpart and including what have heretofore
5 been designated by law as certificates of incorporation or
6 charters. If an amendment of the articles or [articles of merger
7 or division made in the manner permitted by this subpart] a
8 statement filed under Chapter 3 restates articles in their
9 entirety [or if there are articles of consolidation, conversion
10 or domestication], thenceforth the "articles" shall not include
11 any prior documents and any certificate issued by the department
12 with respect thereto shall so state.

13 * * *

14 ["Dissenters rights." The rights and remedies provided by
15 Subchapter D of Chapter 15 (relating to dissenters rights).]

16 * * *

17 "Distribution." A direct or indirect transfer of money or
18 other property (except its own shares or options, rights or
19 warrants to acquire its own shares) or incurrence of
20 indebtedness by a corporation to or for the benefit of any or
21 all of its shareholders in respect of any of its shares whether
22 by dividend or by purchase, redemption or other acquisition of
23 its shares or otherwise. Neither the making of, nor payment or
24 performance upon, a guaranty or similar arrangement by a
25 corporation for the benefit of any or all of its shareholders
26 nor a direct or indirect transfer or allocation of assets or
27 liabilities effected under Chapter 3 (relating to entity
28 transactions) or 19 (relating to fundamental changes) with the
29 approval of the shareholders shall constitute a distribution for
30 the purposes of this subpart.

1 * * *

2 "Foreign business corporation." A foreign corporation for
3 profit subject to Chapter [41] 4 (relating to foreign [business
4 corporations] associations), whether or not required to qualify
5 thereunder.

6 * * *

7 ["Nonqualified foreign business corporation." A foreign
8 business corporation that is not a qualified foreign business
9 corporation as defined in this section.]

10 * * *

11 ["Plan." A plan of reclassification, merger, consolidation,
12 exchange, asset transfer, division or conversion.]

13 * * *

14 ["Qualified foreign business corporation." A foreign
15 business corporation that is:

16 (1) authorized under Chapter 41 (relating to foreign
17 business corporations) to do business in this Commonwealth;

18 or

19 (2) a foreign insurance corporation.]

20 * * *

21 ["Registered corporation." A corporation defined in section
22 2502 (relating to registered corporation status).]

23 * * *

24 Section 11. Sections 1105 and 1106 of Title 15 are amended
25 to read:

26 § 1105. Restriction on equitable relief.

27 A shareholder of a business corporation shall not have any
28 right to obtain, in the absence of fraud or fundamental
29 unfairness, an injunction against any proposed plan or amendment
30 of articles authorized under any provision of this [subpart]

1 title, nor any right to claim the right to valuation and payment
2 of the fair value of his shares because of the plan or
3 amendment, except that he may dissent and claim such payment if
4 and to the extent provided in Subchapter D of Chapter 15
5 (relating to dissenters rights) where this [subpart] title
6 expressly provides that dissenting shareholders shall have the
7 rights and remedies provided in that subchapter. Absent fraud or
8 fundamental unfairness, the rights and remedies so provided
9 shall be exclusive. Structuring a plan or transaction for the
10 purpose or with the effect of eliminating or avoiding the
11 application of dissenters rights is not fraud or fundamental
12 unfairness within the meaning of this section.

13 § 1106. Uniform application of subpart.

14 (a) General rule.--Except as provided in subsection (b),
15 Part I (relating to preliminary provisions) and this subpart
16 [and its amendments] are intended to provide uniform rules for
17 the government and regulation of the affairs of business
18 corporations and of their officers, directors and shareholders
19 regardless of the date or manner of incorporation or
20 qualification, or of the issuance of any shares thereof.

21 (b) Exceptions.--

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

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

1 by the corporation in this Commonwealth.

2 (3) Subsection (a) shall not adversely affect the rights
3 specifically provided for or saved in this [subpart] title.

4 See:

5 The provisions of section 341(c) (relating to interest
6 exchange authorized).

7 The provisions of section 351(c) (relating to conversion
8 authorized).

9 The transitional approval requirements set forth in
10 section 363(d) (relating to approval of division).

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

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

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

17 [The special voting requirements specified in section
18 1931(h) (relating to special requirements).

19 The provisions of section 1952(g) and (h) (relating to
20 proposal and adoption of plan of division).]

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

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

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

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

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

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

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

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

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

16 Section 12. Sections 1303, 1304 and 1305 of Title 15 are
17 repealed:

18 [§ 1303. Corporate name.

19 (a) General rule.--The corporate name may be in any
20 language, but must be expressed in Roman letters or characters
21 or Arabic or Roman numerals, and shall contain:

22 (1) the word "corporation," "company," "incorporated" or
23 "limited" or an abbreviation of any of them;

24 (2) the word "association," "fund" or "syndicate"; or

25 (3) words or abbreviations of like import in languages
26 other than English.

27 (b) Duplicate use of names.--The corporate name shall be
28 distinguishable upon the records of the department from:

29 (1) The name of any other domestic corporation for
30 profit or not-for-profit which is either in existence or for

1 which articles of incorporation have been filed but have not
2 yet become effective, or of any foreign corporation for
3 profit or not-for-profit which is either authorized to do
4 business in this Commonwealth or for which an application for
5 a certificate of authority has been filed but has not yet
6 become effective, or the name of any association registered
7 at any time under 54 Pa.C.S. Ch. 5 (relating to corporate and
8 other association names), unless:

9 (i) the other association:

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

16 (B) has filed with the Department of Revenue a
17 certificate of out of existence, or has failed for a
18 period of three successive years to file with the
19 Department of Revenue a report or return required by
20 law and the fact of such failure has been certified
21 by the Department of Revenue to the Department of
22 State;

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

1 person to the department; or

2 (D) has had the registration of its name under
3 54 Pa.C.S. Ch. 5 terminated.

4 (2) A name the exclusive right to which is at the
5 time reserved by any other person whatsoever in the
6 manner provided by statute. A name shall be rendered
7 unavailable for corporate use by reason of the filing in
8 the Department of State of any assumed or fictitious name
9 required by 54 Pa.C.S. Ch. 3 (relating to fictitious
10 names) to be filed in the department only if and to the
11 extent expressly so provided in that chapter.

12 (c) Required approvals or conditions.--

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

15 (i) A governmental agency of the Commonwealth or of
16 the United States.

17 (ii) A bank, bank and trust company, savings bank,
18 private bank or trust company, as defined in the act of
19 November 30, 1965 (P.L.847, No.356), known as the Banking
20 Code of 1965, unless the corporation or proposed
21 corporation is a Pennsylvania bank holding company or is
22 otherwise authorized by statute to use its proposed name.

23 (iii) An insurance company nor contain any of the
24 words "annuity," "assurance," "beneficial," "bond,"
25 "casualty," "endowment," "fidelity," "fraternal,"
26 "guaranty," "indemnity," "insurance," "insurer,"
27 "reassurance," "reinsurance," "surety" or "title" when
28 used in such a way as to imply that the corporation is
29 engaged in the business of writing insurance or
30 reinsurance as principal or any other words of like

1 purport unless it is duly licensed as an insurance
2 company by its jurisdiction of incorporation or the
3 Insurance Department certifies that it has no objection
4 to the use by the corporation or proposed corporation of
5 the designation. The corporate name of a domestic
6 insurance corporation shall:

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

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

11 (iv) A public utility corporation furnishing
12 electric or gas service to the public, unless the
13 corporation or proposed corporation has as an express
14 corporate purpose the furnishing of service subject to
15 the jurisdiction of the Pennsylvania Public Utility
16 Commission or the Federal Energy Regulatory Commission.

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

19 (2) The corporate name shall not contain:

20 (i) The word "college," "university" or "seminary"
21 when used in such a way as to imply that it is an
22 educational institution conforming to the standards and
23 qualifications prescribed by the State Board of
24 Education, unless there is submitted a certificate from
25 the Department of Education certifying that the
26 corporation or proposed corporation is entitled to use
27 that designation.

28 (ii) Words that constitute blasphemy, profane
29 cursing or swearing or that profane the Lord's name.

30 (iii) The words "engineer" or "engineering" or

1 "surveyor" or "surveying" or any other word implying that
2 any form of the practice of engineering or surveying as
3 defined in the act of May 23, 1945 (P.L.913, No.367),
4 known as the Professional Engineers Registration Law, is
5 provided unless at least one of the incorporators of a
6 proposed corporation or the directors of the existing
7 corporation has been properly registered with the State
8 Registration Board for Professional Engineers in the
9 practice of engineering or surveying and there is
10 submitted to the department a certificate from the board
11 to that effect.

12 (iv) The words "architect" or "architecture" or any
13 other word implying that any form of the practice of
14 architecture as defined in the act of December 14, 1982
15 (P.L.1227, No.281), known as the Architects Licensure
16 Law, is provided unless at least one of the incorporators
17 of a proposed corporation or the directors of the
18 existing corporation has been properly registered with
19 the Architects Licensure Board in the practice of
20 architecture and there is submitted to the department a
21 certificate from the board to that effect.

22 (v) The word "cooperative" or an abbreviation
23 thereof unless the corporation is a cooperative
24 corporation.

25 (d) Other rights unaffected.--This section shall not
26 abrogate or limit the law as to unfair competition or unfair
27 practices nor derogate from the common law, the principles of
28 equity or the provisions of Title 54 (relating to names) with
29 respect to the right to acquire and protect trade names.

30 Subsection (b) shall not apply if the applicant files in the

1 department a certified copy of a final order of a court of
2 competent jurisdiction establishing the prior right of the
3 applicant to the use of a name in this Commonwealth.

4 (e) Remedies for violation of section.--The use of a name in
5 violation of this section shall not vitiate or otherwise affect
6 the corporate existence, but any court having jurisdiction may
7 enjoin the corporation from using or continuing to use a name in
8 violation of this section upon the application of:

9 (1) the Attorney General, acting on his own motion or at
10 the instance of any administrative department, board or
11 commission of this Commonwealth; or

12 (2) any person adversely affected.

13 (f) Cross references.--See sections 135(e) (relating to
14 distinguishable names) and 1106(b) (2) (relating to uniform
15 application of subpart).

16 § 1304. Required name changes by senior corporations.

17 (a) Adoption of new name upon reactivation.--Where a
18 corporate name is made available on the basis that the
19 corporation or other association that formerly registered the
20 name has failed to file in the Department of Revenue a report or
21 a return required by law or where the corporation or other
22 association has filed in the Department of Revenue a certificate
23 of out of existence, the corporation or other association shall
24 cease to have by virtue of its prior registration any right to
25 the use of the name. The corporation or other association, upon
26 withdrawal of the certificate of out of existence or upon the
27 removal of its delinquency in the filing of the required reports
28 or returns, shall make inquiry with the Department of State with
29 regard to the availability of its name and, if the name has been
30 made available to another domestic or foreign corporation for

1 profit or not-for-profit or other association by virtue of these
2 conditions, shall adopt a new name in accordance with law before
3 resuming its activities.

4 (b) Enforcement of undertaking to release name.--If a
5 corporation has used a name that is not distinguishable upon the
6 records of the Department of State from the name of another
7 corporation or other association as permitted by section 1303(b)
8 (1) (relating to duplicate use of names) and the other
9 corporation or other association continues to use its name in
10 this Commonwealth and does not change its name, cease to do
11 business, be wound up or withdraw as it proposed to do in its
12 consent or change its name as required by subsection (a), any
13 court having jurisdiction may enjoin the other corporation or
14 other association from continuing to use its name or a name that
15 is not distinguishable therefrom upon the application of:

16 (1) the Attorney General, acting on his own motion or at
17 the instance of any administrative department, board or
18 commission of this Commonwealth; or

19 (2) any person adversely affected.

20 § 1305. Reservation of corporate name.

21 (a) General rule.--The exclusive right to the use of a
22 corporate name may be reserved by any person. The reservation
23 shall be made by delivering to the Department of State an
24 application to reserve a specified corporate name, executed by
25 the applicant. If the department finds that the name is
26 available for corporate use, it shall reserve the name for the
27 exclusive use of the applicant for a period of 120 days.

28 (b) Transfer of reservation.--The right to exclusive use of
29 a specified corporate name reserved under subsection (a) may be
30 transferred to any other person by delivering to the department

1 a notice of the transfer, executed by the person who reserved
2 the name, and specifying the name and address of the transferee.

3 (c) Cross references.--See sections 134 (relating to
4 docketing statement) and 4131 (relating to registration of
5 name).]

6 Section 13. Sections 1306(b), 1341(b)(3) and (d), 1571(a),
7 (b), (c) and (h), 1575(a) introductory paragraph and (b) and
8 1704(b)(1) of Title 15 are amended to read:

9 § 1306. Articles of incorporation.

10 * * *

11 (b) Other provisions authorized.--A provision of the
12 original articles or a provision of the articles approved by the
13 shareholders, in either case adopted under subsection (a)(8)
14 (ii), may relax or be inconsistent with and supersede any
15 provision of Chapter 3 (relating to entity transactions), 13
16 (relating to incorporation), 15 (relating to corporate powers,
17 duties and safeguards), 17 (relating to officers, directors and
18 shareholders) or 19 (relating to fundamental changes) concerning
19 the subjects specified in subsection (a)(8)(ii), except where a
20 provision of those chapters expressly provides that the articles
21 shall not relax or be inconsistent with any provision on a
22 specified subject. Notwithstanding the foregoing, the articles
23 may provide greater rights for shareholders than are authorized
24 by any provision of those chapters that otherwise provides that
25 the articles shall not relax or be inconsistent with any
26 provision on a specified subject.

27 * * *

28 § 1341. Statement of revival.

29 * * *

30 (b) Contents of statement.--The statement of revival shall

1 be executed in the name of the forfeited or expired corporation
2 and shall, subject to section 109 (relating to name of
3 commercial registered office provider in lieu of registered
4 address), set forth:

5 * * *

6 (3) The name that the corporation adopts as its new name
7 if the adoption of a new name is required by section [1304]
8 207 (relating to required name changes by senior
9 [corporations] associations).

10 * * *

11 (d) Cross [reference.--See section 134 (relating to
12 docketing statement).] references.--See sections 134 (relating
13 to docketing statement) and 135 (relating to requirements to be
14 met by filed documents).

15 § 1571. Application and effect of subchapter.

16 (a) General rule.--Except as otherwise provided in
17 subsection (b), any shareholder (as defined in section 1572
18 (relating to definitions)) of a business corporation shall have
19 the [right to dissent from, and to obtain payment of the fair
20 value of his shares in the event of, any corporate action, or to
21 otherwise obtain fair value for his shares,] rights and remedies
22 provided in this subchapter in connection with a transaction
23 under this title only where this [part] title expressly provides
24 that a shareholder shall have the rights and remedies provided
25 in this subchapter. See:

26 Section 329(c) (relating to special treatment of interest
27 holders).

28 Section 333 (relating to approval of merger).

29 Section 343 (relating to approval of interest exchange).

30 Section 353 (relating to approval of conversion).

1 Section 363 (relating to approval of division).

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

4 [Section 1930 (relating to dissenters rights).

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

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

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

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

12 Section 2104(b) (relating to procedure).

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

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

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

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

20 Section 2904(b) (relating to procedure).

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

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

24 (b) Exceptions.--

25 (1) Except as otherwise provided in paragraph (2), the
26 holders of the shares of any class or series of shares shall
27 not have the right to dissent and obtain payment of the fair
28 value of the shares under this subchapter if, on the record
29 date fixed to determine the shareholders entitled to notice
30 of and to vote at the meeting at which a plan specified in

1 any of section [1930, 1931(d),] 333, 343, 353, 363 or 1932(c)
2 [or 1952(d)] is to be voted on or on the date of the first
3 public announcement that such a plan has been approved by the
4 shareholders by consent without a meeting, the shares are
5 either:

6 (i) listed on a national securities exchange [or
7 designated as a national market system security on an
8 interdealer quotation system by the National Association
9 of Securities Dealers, Inc.] registered under section 6
10 of the Exchange Act; or

11 (ii) held beneficially or of record by more than
12 2,000 persons.

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

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

23 (iii) Shares entitled to dissenters rights under
24 section 329(d) or 1906(c) (relating to dissenters rights
25 upon special treatment).

26 (3) The shareholders of a corporation that acquires by
27 purchase, lease, exchange or other disposition all or
28 substantially all of the shares, property or assets of
29 another corporation by the issuance of shares, obligations or
30 otherwise, with or without assuming the liabilities of the

1 other corporation and with or without the intervention of
2 another corporation or other person, shall not be entitled to
3 the rights and remedies of dissenting shareholders provided
4 in this subchapter regardless of the fact, if it be the case,
5 that the acquisition was accomplished by the issuance of
6 voting shares of the corporation to be outstanding
7 immediately after the acquisition sufficient to elect a
8 majority or more of the directors of the corporation.

9 (c) Grant of optional dissenters rights.--The bylaws or a
10 resolution of the board of directors may direct that all or a
11 part of the shareholders shall have dissenters rights in
12 connection with any corporate action or other transaction that
13 would otherwise not entitle such shareholders to dissenters
14 rights. See section 317 (relating to contractual dissenters
15 rights in entity transactions).

16 * * *

17 (h) Cross references.--[See sections 1105 (relating to
18 restriction on equitable relief), 1904 (relating to de facto
19 transaction doctrine abolished), 1763(c) (relating to
20 determination of shareholders of record) and 2512 (relating to
21 dissenters rights procedure).] See:

22 Section 315 (relating to nature of transactions).

23 Section 1105 (relating to restriction on equitable
24 relief).

25 Section 1763(c) (relating to determination of
26 shareholders of record).

27 Section 2512 (relating to dissenters rights procedure).

28 § 1575. Notice to demand payment.

29 (a) General rule.--If the proposed corporate action is
30 approved by the required vote at a meeting of shareholders of a

1 business corporation, the corporation shall [mail] deliver a
2 further notice to all dissenters who gave due notice of
3 intention to demand payment of the fair value of their shares
4 and who refrained from voting in favor of the proposed action.
5 If the proposed corporate action is approved by the shareholders
6 by less than unanimous consent without a meeting or is taken
7 without the need for approval by the shareholders, the
8 corporation shall [send] deliver to all shareholders who are
9 entitled to dissent and demand payment of the fair value of
10 their shares a notice of the adoption of the plan or other
11 corporate action. In either case, the notice shall:

12 * * *

13 (b) Time for receipt of demand for payment.--The time set
14 for receipt of the demand and deposit of certificated shares
15 shall be not less than 30 days from the [mailing] delivery of
16 the notice.

17 § 1704. Place and notice of meetings of shareholders.

18 * * *

19 (b) Notice.--Notice in record form of every meeting of the
20 shareholders shall be given by, or at the direction of, the
21 secretary or other authorized person to each shareholder of
22 record entitled to vote at the meeting at least:

23 (1) ten days prior to the day named for a meeting that
24 will consider a transaction under Chapter 3 (relating to
25 entity transactions) or a fundamental change under Chapter 19
26 (relating to fundamental changes); or

27 * * *

28 Section 14. Section 1757(a) and (b) of Title 15 are amended
29 and the section is amended by adding a subsection to read:

30 § 1757. Action by shareholders.

1 (a) General rule.--Except as otherwise provided in this
2 [subpart] title or in a bylaw adopted by the shareholders,
3 whenever any corporate action is to be taken by vote of the
4 shareholders of a business corporation, it shall be authorized
5 upon receiving the affirmative vote of a majority of the votes
6 cast by all shareholders entitled to vote thereon and, if any
7 shareholders are entitled to vote thereon as a class, upon
8 receiving the affirmative vote of a majority of the votes cast
9 by the shareholders entitled to vote as a class.

10 (b) Changes in required vote.--Whenever a provision of this
11 [subpart] title requires a specified number or percentage of
12 votes of shareholders or of a class of shareholders for the
13 taking of any action, a business corporation may prescribe in a
14 bylaw adopted by the shareholders that a higher number or
15 percentage of votes shall be required for the action. See
16 sections 1504(d) (relating to amendment of voting provisions)
17 and 1914(e) (relating to amendment of voting provisions).

18 * * *

19 (d) Cross reference.--See section 321 (relating to approval
20 by business corporation).

21 Section 15. Section 1766(c) of Title 15 is amended to read:
22 § 1766. Consent of shareholders in lieu of meeting.

23 * * *

24 (c) Effectiveness of action by partial consent.--An action
25 taken pursuant to subsection (b) to approve a transaction under
26 Chapter 3 (relating to entity transactions) shall not become
27 effective until after at least ten days' notice of the action
28 has been given to each shareholder entitled to vote thereon who
29 has not consented thereto. Any other action may become effective
30 immediately, but prompt notice that the action has been taken

1 shall be given to each shareholder entitled to vote thereon that
2 has not consented. This subsection may not be relaxed by any
3 provision of the articles.

4 * * *

5 Section 16. Sections 1901, 1902(a) and 1904 of Title 15 are
6 amended to read:

7 [§ 1901. Omission of certain provisions from filed plans.

8 (a) General rule.--A plan as filed in the Department of
9 State under any provision of this chapter may omit all
10 provisions of the plan except provisions, if any:

11 (1) that are intended to amend or constitute the
12 operative provisions of the articles of a corporation as in
13 effect subsequent to the effective date of the plan; or

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

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

29 § 1902. Statement of termination.

30 (a) General rule.--If [a statement with respect to shares,]

1 articles of amendment [or articles of merger, consolidation,
2 exchange, division or conversion of a business corporation or to
3 which it is a party] have been filed in the [Department of
4 State] department prior to the termination of the amendment [or
5 plan] pursuant to provisions therefor set forth in the
6 resolution or petition relating to the amendment [or in the
7 plan], the termination shall not be effective unless the
8 corporation shall, prior to the time the amendment [or plan] is
9 to become effective, file in the department a statement of
10 termination. The statement of termination shall be [executed]
11 signed by the corporation that filed the amendment [or by each
12 corporation that is a party to the plan, unless the plan permits
13 termination by less than all of the corporations, in which case
14 the statement shall be executed on behalf of the corporation or
15 corporations exercising the right to terminate,] and shall set
16 forth:

17 (1) A copy of the [statement with respect to shares,]
18 articles of amendment [or articles of merger, consolidation,
19 exchange, division or conversion relating to the amendment or
20 plan that is terminated].

21 (2) A statement that the amendment [or plan] has been
22 terminated in accordance with the provisions therefor set
23 forth therein.

24 * * *

25 § 1904. De facto transaction doctrine abolished.

26 The doctrine of de facto mergers, consolidations and other
27 fundamental transactions is abolished and the rules laid down by
28 Bloch v. Baldwin Locomotive Works, 75 Pa. D. & C. 24 (C.P. Del.
29 Cty. 1950), and Marks v. The Autocar Co., 153 F.Supp. 768 (E.D.
30 Pa. 1954), and similar cases are overruled. A transaction that

1 in form satisfies the requirements of this [subpart] title may
2 be challenged by reason of its substance only to the extent
3 permitted by section 1105 (relating to restriction on equitable
4 relief).

5 Section 17. Section 1905 of Title 15 is amended to read:

6 § 1905. Proposal of fundamental transactions.

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

14 Section 18. Section 1906(a), (d)(1) and (e) of Title 15 are
15 amended and the section is amended by adding a subsection to
16 read:

17 § 1906. Special treatment of holders of shares of same class or
18 series.

19 (a) General rule.--Except as otherwise restricted in the
20 articles, a plan may contain a provision classifying the holders
21 of shares of a class or series into one or more separate groups
22 by reference to any facts or circumstances that are not
23 manifestly unreasonable and providing mandatory treatment for
24 shares of the class or series held by particular shareholders or
25 groups of shareholders that differs materially from the
26 treatment accorded other shareholders or groups of shareholders
27 holding shares of the same class or series (including a
28 provision modifying or rescinding rights previously created
29 under this section) if:

30 (1) (i) [such provision is specifically authorized by a

1 majority of the votes cast by all shareholders entitled
2 to vote on the plan, as well as] the plan is approved by
3 a majority of the votes cast by any class or series of
4 shares any of the shares of which are so classified into
5 groups, whether or not such class or series would
6 otherwise be entitled to vote on the plan; and

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

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

14 * * *

15 (c.2) Notice to shareholders.--A notice to shareholders of a
16 meeting called to act on a plan that provides for special
17 treatment must state that the plan provides for special
18 treatment. The notice must identify the shareholders receiving
19 special treatment unless the notice is accompanied by either a
20 summary of the plan that includes that information or the full
21 text of the plan.

22 (d) Exceptions.--This section shall not apply to:

23 (1) [The creation or issuance of securities, contracts,
24 warrants or other instruments evidencing any shares, option
25 rights, securities having conversion or option rights or
26 obligations authorized by section 2513 (relating to disparate
27 treatment of certain persons).] (Reserved).

28 * * *

29 (e) Definition.--As used in this section, the term "plan"
30 [includes] means:

1 (1) an amendment of the articles that effects a
2 reclassification of shares, whether or not the amendment is
3 accompanied by a separate plan of reclassification; [and]

4 (1.1) a plan of asset transfer adopted under section
5 1932(b) (relating to voluntary transfer of corporate assets);
6 or

7 (2) a resolution recommending that the corporation
8 dissolve voluntarily adopted under section 1972(a) (relating
9 to proposal of voluntary dissolution).

10 Section 19. Section 1908 of Title 15 is amended to read:

11 § 1908. Submission of matters to shareholders.

12 A business corporation may agree, in record form, to submit
13 an amendment [or plan] or other matter to its shareholders
14 whether or not the board of directors determines, at any time
15 after approving the matter, that the matter is no longer
16 advisable and recommends that the shareholders reject or vote
17 against it, regardless of whether the board of directors changes
18 its recommendation. If a corporation so agrees to submit a
19 matter to its shareholders, the matter is deemed to have been
20 validly adopted by the corporation when it has been approved by
21 the shareholders.

22 Section 20. Subchapter C heading of Chapter 19 of Title 15
23 is amended to read:

24 SUBCHAPTER C

25 MERGER [,CONSOLIDATION, SHARE EXCHANGES] LIABILITIES AND
26 SALE OF ASSETS

27 Section 21. Sections 1921, 1922, 1923, 1924, 1925, 1926,
28 1927, 1928, 1929, 1930 and 1931 of Title 15 are repealed:

29 [§ 1921. Merger and consolidation authorized.

30 (a) Domestic surviving or new corporation.--Any two or more

1 domestic business corporations, or any two or more foreign
2 business corporations, or any one or more domestic business
3 corporations and any one or more foreign business corporations,
4 may, in the manner provided in this subchapter, be merged into
5 one of the domestic business corporations, designated in this
6 subchapter as the surviving corporation, or consolidated into a
7 new corporation to be formed under this subpart, if the foreign
8 business corporations are authorized by the laws of the
9 jurisdiction under which they are incorporated to effect a
10 merger or consolidation with a corporation of another
11 jurisdiction.

12 (b) Foreign surviving or new corporation.--Any one or more
13 domestic business corporations, and any one or more foreign
14 business corporations, may, in the manner provided in this
15 subchapter, be merged into one of the foreign business
16 corporations, designated in this subchapter as the surviving
17 corporation, or consolidated into a new corporation to be
18 incorporated under the laws of the jurisdiction under which one
19 of the foreign business corporations is incorporated, if the
20 laws of that jurisdiction authorize a merger with or
21 consolidation into a corporation of another jurisdiction.

22 (c) Business trusts, partnerships and other associations.--
23 The provisions of this subchapter applicable to domestic and
24 foreign business corporations shall also be applicable to a
25 merger, consolidation or share exchange to which a domestic
26 business corporation is a party or in which such a corporation
27 is the resulting entity with, into or involving a domestic or
28 foreign partnership, business trust or other association. The
29 surviving, resulting or exchanging entity in such a merger,
30 consolidation or share exchange may be a corporation,

1 partnership, business trust or other association. Subject to the
2 provisions of Subchapter F of Chapter 85 (relating to merger and
3 consolidation), the powers and duties vested in and imposed upon
4 the board of directors and shareholders in this subchapter shall
5 be exercised and performed by the group of persons under the
6 direction of whom the business and affairs of the partnership,
7 business trust or other association are managed and the holders
8 or owners of beneficial or other interests in the partnership,
9 business trust or other association, respectively, irrespective
10 of the names by which the managing group and the holders or
11 owners of beneficial or other interests are designated. The
12 units into which the beneficial or other interests in the
13 partnership, business trust or other association are divided
14 shall be deemed to be shares for the purposes of applying the
15 provisions of this subchapter to a merger, consolidation or
16 share exchange involving the partnership, business trust or
17 other association. Dissenters rights shall be available to a
18 holder of beneficial or other interests only to the extent, if
19 any, provided by the law under which the partnership, business
20 trust or other association is organized.

21 § 1922. Plan of merger or consolidation.

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

24 (1) The terms and conditions of the merger or
25 consolidation.

26 (2) If the surviving or new corporation is or is to be a
27 domestic business corporation:

28 (i) any changes desired to be made in the articles,
29 which may include a restatement of the articles in the
30 case of a merger; or

1 (ii) in the case of a consolidation, all of the
2 statements required by this subpart to be set forth in
3 restated articles.

4 (3) The manner and basis of converting the shares of
5 each corporation into shares or other securities or
6 obligations of the surviving or new corporation, or of
7 canceling some or all of the shares of a corporation, as the
8 case may be, and, if any of the shares of any of the
9 corporations that are parties to the merger or consolidation
10 are not to be canceled or converted solely into shares or
11 other securities or obligations of the surviving or new
12 corporation, the shares or other securities or obligations of
13 any other person or cash, property or rights that the holders
14 of such shares are to receive in exchange for, or upon
15 conversion of, such shares, and the surrender of any
16 certificates evidencing them, which securities or
17 obligations, if any, of any other person or cash, property or
18 rights may be in addition to or in lieu of the shares or
19 other securities or obligations of the surviving or new
20 corporation.

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

26 (5) Such other provisions as are deemed desirable.

27 (b) Post-adoption amendment.--A plan of merger or
28 consolidation may contain a provision that the boards of
29 directors of the constituent corporations may amend the plan at
30 any time prior to its effective date, except that an amendment

1 made subsequent to the adoption of the plan by the shareholders
2 of any constituent domestic business corporation shall not
3 change:

4 (1) The amount or kind of shares, obligations, cash,
5 property or rights to be received in exchange for or on
6 conversion of all or any of the shares of the constituent
7 domestic business corporation adversely to the holders of
8 those shares.

9 (2) Any provision of the articles of the surviving or
10 new corporation as it is to be in effect immediately
11 following consummation of the merger or consolidation except
12 provisions that may be amended without the approval of the
13 shareholders under section 1914(c)(2) (relating to adoption
14 of amendments).

15 (3) Any of the other terms and conditions of the plan if
16 the change would adversely affect the holders of any shares
17 of the constituent domestic business corporation.

18 (c) Proposal.--Except where the approval of the board of
19 directors is unnecessary under this subchapter, every merger or
20 consolidation shall be proposed in the case of each domestic
21 business corporation by the adoption by the board of directors
22 of a resolution approving the plan of merger or consolidation.
23 Except where the approval of the shareholders is unnecessary
24 under this subchapter, the board of directors shall direct that
25 the plan be submitted to a vote of the shareholders entitled to
26 vote thereon at a regular or special meeting of the
27 shareholders.

28 (d) Party to plan or transaction.--A corporation,
29 partnership, business trust or other association that approves a
30 plan in its capacity as a shareholder or creditor of a merging

1 or consolidating corporation, or that furnishes all or a part of
2 the consideration contemplated by a plan, does not thereby
3 become a party to the plan or the merger or consolidation for
4 the purposes of this subchapter.

5 (e) Reference to outside facts.--Any of the terms of a plan
6 of merger or consolidation may be made dependent upon facts
7 ascertainable outside of the plan if the manner in which the
8 facts will operate upon the terms of the plan is set forth in
9 the plan. Such facts may include, without limitation, actions or
10 events within the control of or determinations made by a party
11 to the plan or a representative of a party to the plan.

12 § 1923. Notice of meeting of shareholders.

13 (a) General rule.--Notice in record form of the meeting of
14 shareholders that will act on the proposed plan must be given to
15 each shareholder of record, whether or not entitled to vote
16 thereon, of each domestic business corporation that is a party
17 to the merger or consolidation. The notice must include or be
18 accompanied by the proposed plan or a summary thereof. If
19 Subchapter D of Chapter 15 (relating to dissenters rights) is
20 applicable to the holders of shares of any class or series, the
21 text of that subchapter and of section 1930 (relating to
22 dissenters rights) must be furnished to the holders of shares of
23 that class or series. If the surviving or new corporation will
24 be a nonregistered corporation, the notice must state that a
25 copy of its bylaws as they will be in effect immediately
26 following the merger or consolidation will be furnished to any
27 shareholder on request and without cost.

28 (b) Cross references.--See Subchapter A of Chapter 17
29 (relating to notice and meetings generally) and sections 2512
30 (relating to dissenters rights procedure) and 2528 (relating to

1 notice of shareholder meetings).

2 § 1924. Adoption of plan.

3 (a) General rule.--The plan of merger or consolidation shall
4 be adopted upon receiving the affirmative vote of a majority of
5 the votes cast by all shareholders entitled to vote thereon of
6 each of the domestic business corporations that is a party to
7 the merger or consolidation and, if any class or series of
8 shares is entitled to vote thereon as a class, the affirmative
9 vote of a majority of the votes cast in each class vote. The
10 holders of any class or series of shares of a domestic
11 corporation that is a party to a merger or consolidation that
12 effects any change in the articles of the corporation shall be
13 entitled to vote as a class on the plan if they would have been
14 entitled to a class vote under the provisions of section 1914
15 (relating to adoption of amendments) had the change been
16 accomplished under Subchapter B (relating to amendment of
17 articles). A proposed plan of merger or consolidation shall not
18 be deemed to have been adopted by the corporation unless it has
19 also been approved by the board of directors, regardless of the
20 fact that the board has directed or suffered the submission of
21 the plan to the shareholders for action.

22 (b) Adoption by board of directors.--

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

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

29 (A) the surviving or new corporation is a
30 domestic business corporation and the articles of the

1 surviving or new corporation are identical to the
2 articles of the constituent corporation, except
3 changes that under section 1914(c) (relating to
4 adoption by board of directors) may be made without
5 shareholder action;

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

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

20 (ii) immediately prior to the adoption of the plan
21 and at all times thereafter prior to its effective date,
22 another corporation that is a party to the plan owns
23 directly or indirectly 80% or more of the outstanding
24 shares of each class of the constituent corporation; or

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

30 (2) If a merger or consolidation is effected pursuant to

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

5 (3) If a merger or consolidation of a subsidiary
6 corporation with a parent corporation is effected pursuant to
7 paragraph (1) (ii), the plan of merger or consolidation shall
8 be deemed adopted by the subsidiary corporation when it has
9 been adopted by the board of the parent corporation and
10 neither approval of the plan by the board of directors of the
11 subsidiary corporation nor execution of articles of merger or
12 consolidation by the subsidiary corporation shall be
13 necessary.

14 (4) (i) Unless otherwise required by its bylaws, a plan
15 of merger or consolidation providing for the merger or
16 consolidation of a domestic business corporation
17 (referred to in this paragraph as the "constituent
18 corporation") with or into a single indirect wholly owned
19 subsidiary (referred to in this paragraph as the
20 "subsidiary corporation") of the constituent corporation
21 shall not require the approval of the shareholders of
22 either the constituent corporation or the subsidiary
23 corporation if all of the provisions of this paragraph
24 are satisfied.

25 (ii) A merger or consolidation under this paragraph
26 shall satisfy the following conditions:

27 (A) The constituent corporation and the
28 subsidiary corporation are the only parties to the
29 merger or consolidation, other than the resulting
30 corporation, if any, in a consolidation (the

1 corporation that survives or results from the merger
2 or consolidation is referred to in this paragraph as
3 the "resulting subsidiary").

4 (B) Each share or fraction of a share of the
5 capital stock of the constituent corporation
6 outstanding immediately prior to the effective time
7 of the merger or consolidation is converted in the
8 merger or consolidation into a share or equal
9 fraction of a share of capital stock of a holding
10 company having the same designations, rights, powers
11 and preferences and the qualifications, limitations
12 and restrictions as the share of stock of the
13 constituent corporation being converted in the merger
14 or consolidation.

15 (C) The holding company and the resulting
16 subsidiary are each domestic business corporations.

17 (D) Immediately following the effective time of
18 the merger or consolidation, the articles of
19 incorporation and bylaws of the holding company are
20 identical to the articles of incorporation and bylaws
21 of the constituent corporation immediately before the
22 effective time of the merger or consolidation except
23 for changes that could be made without shareholder
24 approval under section 1914(c) (relating to adoption
25 by board of directors).

26 (E) Immediately following the effective time of
27 the merger or consolidation, the resulting subsidiary
28 is a direct or indirect wholly owned subsidiary of
29 the holding company.

30 (F) The directors of the constituent corporation

1 become or remain the directors of the holding company
2 upon the effective time of the merger or
3 consolidation.

4 (G) The board of directors of the constituent
5 corporation has made a good faith determination that
6 the shareholders of the constituent corporation will
7 not recognize gain or loss for United States Federal
8 Income Tax purposes.

9 (iii) As used in this paragraph only, the term
10 "holding company" means a corporation that, from its
11 incorporation until consummation of the merger or
12 consolidation governed by this paragraph, was at all
13 times a direct wholly owned subsidiary of the constituent
14 corporation and whose capital stock is issued in the
15 merger or consolidation.

16 (iv) If the holding company is a registered
17 corporation, the shares of the holding company issued in
18 connection with the merger or consolidation shall be
19 deemed to have been acquired at the time that the shares
20 of the constituent corporation converted in the merger or
21 consolidation were acquired.

22 (5) A plan of merger or consolidation adopted by the
23 board of directors under this subsection without the approval
24 of the shareholders shall not, by itself, create or impair
25 any rights or obligations on the part of any person under
26 section 2538 (relating to approval of transactions with
27 interested shareholders) or under Subchapters E (relating to
28 control transactions), F (relating to business combinations),
29 G (relating to control-share acquisitions), H (relating to
30 disgorgement by certain controlling shareholders following

1 attempts to acquire control), I (relating to severance
2 compensation for employees terminated following certain
3 control-share acquisitions) and J (relating to business
4 combination transactions - labor contracts) of Chapter 25,
5 nor shall it change the standard of care applicable to the
6 directors under Subchapter B of Chapter 17 (relating to
7 fiduciary duty).

8 (c) Termination of plan.--Prior to the time when a merger or
9 consolidation becomes effective, the merger or consolidation may
10 be terminated pursuant to provisions therefor, if any, set forth
11 in the plan. If articles of merger or consolidation have been
12 filed in the Department of State prior to the termination, a
13 statement under section 1902 (relating to statement of
14 termination) shall be filed in the department.

15 (d) Cross reference.--See section 2539 (relating to adoption
16 of plan of merger by board of directors).

17 § 1925. Authorization by foreign corporations.

18 The plan of merger or consolidation shall be authorized,
19 adopted or approved by each foreign business corporation that
20 desires to merge or consolidate in accordance with the laws of
21 the jurisdiction in which it is incorporated.

22 § 1926. Articles of merger or consolidation.

23 Upon the adoption of the plan of merger or consolidation by
24 the corporations desiring to merge or consolidate, as provided
25 in this subchapter, articles of merger or articles of
26 consolidation, as the case may be, shall, except as provided by
27 section 1924(b)(3) (relating to adoption by board of directors),
28 be executed by each corporation and shall, subject to section
29 109 (relating to name of commercial registered office provider
30 in lieu of registered address), set forth:

1 (1) The name and the location of the registered office,
2 including street and number, if any, of the domestic
3 surviving or new corporation or, in the case of a foreign
4 surviving or new corporation, the name of the corporation and
5 its jurisdiction of incorporation, together with either:

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

9 (ii) If a nonqualified foreign business corporation,
10 the address, including street and number, if any, of its
11 principal office under the laws of the jurisdiction in
12 which it is incorporated.

13 (2) The name and address, including street and number,
14 if any, of the registered office of each other domestic
15 business corporation and qualified foreign business
16 corporation that is a party to the merger or consolidation.

17 (3) If the plan is to be effective on a specified date,
18 the hour, if any, and the month, day and year of the
19 effective date.

20 (4) The manner in which the plan was adopted by each
21 domestic corporation and, if one or more foreign corporations
22 are parties to the merger or consolidation, the fact that the
23 plan was authorized, adopted or approved, as the case may be,
24 by each of the foreign corporations in accordance with the
25 laws of the jurisdiction in which it is incorporated.

26 (5) Except as provided in section 1901 (relating to
27 omission of certain provisions from filed plans), the plan of
28 merger or consolidation.

29 § 1927. Filing of articles of merger or consolidation.

30 (a) General rule.--The articles of merger or articles of

1 consolidation, as the case may be, and the certificates or
2 statement, if any, required by section 139 (relating to tax
3 clearance of certain fundamental transactions) shall be filed in
4 the Department of State.

5 (b) Cross reference.--See section 134 (relating to docketing
6 statement).

7 § 1928. Effective date of merger or consolidation.

8 Upon the filing of the articles of merger or the articles of
9 consolidation in the Department of State or upon the effective
10 date specified in the plan of merger or consolidation, whichever
11 is later, the merger or consolidation shall be effective. The
12 merger or consolidation of one or more domestic business
13 corporations into a foreign business corporation shall be
14 effective according to the provisions of law of the jurisdiction
15 in which the foreign corporation is incorporated, but not until
16 articles of merger or articles of consolidation have been
17 adopted and filed, as provided in this subchapter.

18 § 1929. Effect of merger or consolidation.

19 (a) Single surviving or new corporation.--Upon the merger or
20 consolidation becoming effective, the several corporations
21 parties to the merger or consolidation shall be a single
22 corporation which, in the case of a merger, shall be the
23 corporation designated in the plan of merger as the surviving
24 corporation and, in the case of a consolidation, shall be the
25 new corporation provided for in the plan of consolidation. The
26 separate existence of all corporations parties to the merger or
27 consolidation shall cease, except that of the surviving
28 corporation, in the case of a merger. The surviving or new
29 corporation, as the case may be, if it is a domestic business
30 corporation, shall not thereby acquire authority to engage in

1 any business or exercise any right that a corporation may not be
2 incorporated under this subpart to engage in or exercise.

3 (b) Property rights.--All the property, real, personal and
4 mixed, and franchises of each of the corporations parties to the
5 merger or consolidation, and all debts due on whatever account
6 to any of them, including subscriptions for shares and other
7 choses in action belonging to any of them, shall be deemed to be
8 vested in and shall belong to the surviving or new corporation,
9 as the case may be, without further action, and the title to any
10 real estate, or any interest therein, vested in any of the
11 corporations shall not revert or be in any way impaired by
12 reason of the merger or consolidation. The surviving or new
13 corporation shall thenceforth be responsible for all the
14 liabilities of each of the corporations so merged or
15 consolidated. Liens upon the property of the merging or
16 consolidating corporations shall not be impaired by the merger
17 or consolidation and any claim existing or action or proceeding
18 pending by or against any of the corporations may be prosecuted
19 to judgment as if the merger or consolidation had not taken
20 place or the surviving or new corporation may be proceeded
21 against or substituted in its place.

22 (c) Taxes.--Any taxes, interest, penalties and public
23 accounts of the Commonwealth claimed against any of the merging
24 or consolidating corporations that are settled, assessed or
25 determined prior to or after the merger or consolidation shall
26 be the liability of the surviving or new corporation and,
27 together with interest thereon, shall be a lien against the
28 franchises and property, both real and personal, of the
29 surviving or new corporation.

30 (d) Articles of incorporation.--In the case of a merger, the

1 articles of incorporation of the surviving domestic business
2 corporation, if any, shall be deemed to be amended to the
3 extent, if any, that changes in its articles are stated in the
4 plan of merger. In the case of a consolidation into a domestic
5 business corporation, the statements that are set forth in the
6 plan of consolidation, or articles of incorporation set forth
7 therein, shall be deemed to be the articles of incorporation of
8 the new corporation.

9 § 1930. Dissenters rights.

10 (a) General rule.--If any shareholder of a domestic business
11 corporation that is to be a party to a merger or consolidation
12 pursuant to a plan of merger or consolidation objects to the
13 plan of merger or consolidation and complies with the provisions
14 of Subchapter D of Chapter 15 (relating to dissenters rights),
15 the shareholder shall be entitled to the rights and remedies of
16 dissenting shareholders therein provided, if any. See also
17 section 1906(c) (relating to dissenters rights upon special
18 treatment).

19 (b) Plans adopted by directors only.--Except as otherwise
20 provided pursuant to section 1571(c) (relating to grant of
21 optional dissenters rights), Subchapter D of Chapter 15 shall
22 not apply to any of the shares of a corporation that is a party
23 to a merger or consolidation pursuant to section 1924(b)(1)(i)
24 or (4) (relating to adoption by board of directors).

25 (c) Cross references.--See sections 1571(b) (relating to
26 exceptions) and 1904 (relating to de facto transaction doctrine
27 abolished).

28 § 1931. Share exchanges.

29 (a) General rule.--All the outstanding shares of one or more
30 classes or series of a domestic business corporation, designated

1 in this section as the exchanging corporation, may, in the
2 manner provided in this section, be acquired by any person,
3 designated in this section as the acquiring person, through an
4 exchange of all the shares pursuant to a plan of exchange. The
5 plan of exchange may also provide for the shares of any other
6 class or series of the exchanging corporation to be canceled or
7 converted into shares, other securities or obligations of any
8 person or cash, property or rights. The procedure authorized by
9 this section shall not be deemed to limit the power of any
10 person to acquire all or part of the shares or other securities
11 of any class or series of a corporation through a voluntary
12 exchange or otherwise by agreement with the holders of the
13 shares or other securities.

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

16 (1) The terms and conditions of the exchange.

17 (2) The manner and basis of canceling the shares of the
18 exchanging corporation or exchanging or converting the shares
19 of the exchanging corporation into shares or other securities
20 or obligations of the acquiring person, and, if any of the
21 shares of the exchanging corporation are not to be exchanged
22 or converted solely into shares or other securities or
23 obligations of the acquiring person, the shares or other
24 securities or obligations of any other person or cash,
25 property or rights that the holders of the shares of the
26 exchanging corporation are to receive in exchange for, or
27 upon conversion of, the shares and the surrender of any
28 certificates evidencing them, which securities or
29 obligations, if any, of any other person or cash, property
30 and rights may be in addition to or in lieu of the shares or

1 other securities or obligations of the acquiring person.

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

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

12 (5) Such other provisions as are deemed desirable.

13 (c) Proposal and adoption.--The plan of exchange shall be
14 proposed and adopted and may be amended after its adoption and
15 terminated by the exchanging corporation in the manner provided
16 by this subchapter for the proposal, adoption, amendment and
17 termination of a plan of merger except section 1924(b) (relating
18 to adoption by board of directors). There shall be included in,
19 or enclosed with, the notice of the meeting of shareholders to
20 act on the plan a copy or a summary of the plan and, if
21 Subchapter D of Chapter 15 (relating to dissenters rights) is
22 applicable, a copy of the subchapter and of subsection (d). The
23 holders of any class of shares to be exchanged or converted
24 pursuant to the plan of exchange shall be entitled to vote as a
25 class on the plan if they would have been entitled to vote on a
26 plan of merger that affects the class in substantially the same
27 manner as the plan of exchange.

28 (d) Dissenters rights in share exchanges.--Any holder of
29 shares that are to be canceled, exchanged or converted pursuant
30 to a plan of exchange who objects to the plan and complies with

1 the provisions of Subchapter D of Chapter 15 shall be entitled
2 to the rights and remedies of dissenting shareholders therein
3 provided, if any. See section 1906(c) (relating to dissenters
4 rights upon special treatment).

5 (e) Articles of exchange.--Upon adoption of a plan of
6 exchange, as provided in this section, articles of exchange
7 shall be executed by the exchanging corporation and shall set
8 forth:

9 (1) The name and, subject to section 109 (relating to
10 name of commercial registered office provider in lieu of
11 registered address), the location of the registered office,
12 including street and number, if any, of the exchanging
13 corporation.

14 (2) If the plan is to be effective on a specified date,
15 the hour, if any, and the month, day and year of the
16 effective date.

17 (3) The manner in which the plan was adopted by the
18 exchanging corporation.

19 (4) Except as provided in section 1901 (relating to
20 omission of certain provisions from filed plans), the plan of
21 exchange.

22 The articles of exchange shall be filed in the Department of
23 State. See sections 134 (relating to docketing statement) and
24 135 (relating to requirements to be met by filed documents).

25 (f) Effective date.--Upon the filing of articles of exchange
26 in the department or upon the effective date specified in the
27 plan of exchange, whichever is later, the plan shall become
28 effective.

29 (g) Effect of plan.--Upon the plan of exchange becoming
30 effective, the shares of the exchanging corporation that are,

1 under the terms of the plan, to be canceled, converted or
2 exchanged shall cease to exist or shall be converted or
3 exchanged. The former holders of the shares shall thereafter be
4 entitled only to the shares, other securities or obligations or
5 cash, property or rights into which they have been converted or
6 for which they have been exchanged in accordance with the plan,
7 and the acquiring person shall be the holder of the shares of
8 the exchanging corporation stated in the plan to be acquired by
9 such person. The articles of incorporation of the exchanging
10 corporation shall be deemed to be amended to the extent, if any,
11 that changes in its articles are stated in the plan of exchange.

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

21 (i) Reference to outside facts.--Any of the terms of a plan
22 of exchange may be made dependent upon facts ascertainable
23 outside of the plan if the manner in which the facts will
24 operate upon the terms of the plan is set forth in the plan.
25 Such facts may include, without limitation, actions or events
26 within the control of or determinations made by a party to the
27 plan or a representative of a party to the plan.]

28 Section 22. Section 1932(b)(1), (2) and (4) of Title 15 are
29 amended to read:

30 § 1932. Voluntary transfer of corporate assets.

1 * * *

2 (b) Shareholder approval required.--

3 (1) A sale, lease, exchange or other disposition of all,
4 or substantially all, the property and assets, with or
5 without the goodwill, of a business corporation, if not made
6 pursuant to subsection (a) or (d) or to section 1551
7 (relating to distributions to shareholders) or Subchapter [D]
8 F of Chapter 3 (relating to division), may be made only
9 pursuant to a plan of asset transfer in the manner provided
10 in this subsection. A corporation selling, leasing or
11 otherwise disposing of all, or substantially all, its
12 property and assets is referred to in this subsection and in
13 subsection (c) as the "transferring corporation."

14 (2) The property or assets of a direct or indirect
15 subsidiary corporation that is controlled by a parent
16 corporation shall also be deemed the property or assets of
17 the parent corporation for the purposes of this subsection
18 and of subsection (c). A merger [or consolidation] to which
19 such a subsidiary corporation is a party and in which a third
20 party acquires direct or indirect ownership of the property
21 or assets of the subsidiary corporation constitutes an "other
22 disposition" of the property or assets of the parent
23 corporation within the meaning of that term as used in this
24 section.

25 * * *

26 (4) The plan of asset transfer shall be proposed and
27 adopted, and may be amended after its adoption and
28 terminated, by the transferring corporation in the manner
29 provided in [this subchapter] Chapter 3 (relating to entity
30 transactions) for the proposal, adoption, amendment and

1 termination of a plan of merger, except section [1924(b)
2 (relating to adoption by board of directors)] 321(d)
3 (relating to approval by business corporation). The
4 procedures of [this subchapter] Chapter 3 shall not be
5 applicable to the person acquiring the property or assets of
6 the transferring corporation. There shall be included in, or
7 enclosed with, the notice of the meeting of the shareholders
8 of the transferring corporation to act on the plan a copy or
9 a summary of the plan and, if Subchapter D of Chapter 15
10 (relating to dissenters rights) is applicable, a copy of the
11 subchapter and of subsection (c).

12 * * *

13 Section 23. Subchapter D heading and sections 1951, 1952,
14 1953, 1954, 1955, 1956, 1957, Subchapter E and section 1980 of
15 Chapter 19 of Title 15 are repealed:

16 [SUBCHAPTER D

17 DIVISION

18 § 1951. Division authorized.

19 (a) Division of domestic corporation.--Any domestic business
20 corporation may, in the manner provided in this subchapter, be
21 divided into two or more domestic business corporations
22 incorporated or to be incorporated under this article, or into
23 one or more domestic business corporations and one or more
24 foreign business corporations to be incorporated under the laws
25 of another jurisdiction or jurisdictions, or into two or more
26 foreign business corporations, if the laws of the other
27 jurisdictions authorize the division.

28 (b) Division of foreign corporation.--Any foreign business
29 corporation may, in the manner provided in this subchapter, be
30 divided into one or more domestic business corporations to be

1 incorporated under this subpart and one or more foreign business
2 corporations incorporated or to be incorporated under the laws
3 of another jurisdiction or jurisdictions, or into two or more
4 domestic business corporations, if the foreign business
5 corporation is authorized under the laws of the jurisdiction
6 under which it is incorporated to effect a division.

7 (c) Surviving and new corporations.--The corporation
8 effecting a division, if it survives the division, is designated
9 in this subchapter as the surviving corporation. All
10 corporations originally incorporated by a division are
11 designated in this subchapter as new corporations. The surviving
12 corporation, if any, and the new corporation or corporations are
13 collectively designated in this subchapter as the resulting
14 corporations.

15 § 1952. Proposal and adoption of plan of division.

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

18 (1) The terms and conditions of the division, including
19 the manner and basis of:

20 (i) The reclassification of the shares of the
21 surviving corporation, if there be one, and, if any of
22 the shares of the dividing corporation are not to be
23 converted solely into shares or other securities or
24 obligations of one or more of the resulting corporations,
25 the shares or other securities or obligations of any
26 other person, or cash, property or rights that the
27 holders of such shares are to receive in exchange for or
28 upon conversion of such shares, and the surrender of any
29 certificates evidencing them, which securities or
30 obligations, if any, of any other person or cash,

1 property or rights may be in addition to or in lieu of
2 shares or other securities or obligations of one or more
3 of the resulting corporations.

4 (ii) The disposition of the shares and other
5 securities or obligations, if any, of the new corporation
6 or corporations resulting from the division.

7 (2) A statement that the dividing corporation will, or
8 will not, survive the division.

9 (3) Any changes desired to be made in the articles of
10 the surviving corporation, if there be one, including a
11 restatement of the articles.

12 (4) The articles of incorporation required by subsection
13 (b).

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

19 (6) Such other provisions as are deemed desirable.

20 (b) Articles of new corporations.--There shall be included
21 in or annexed to the plan of division:

22 (1) Articles of incorporation, which shall contain all
23 of the statements required by this subpart to be set forth in
24 restated articles, for each of the new domestic business
25 corporations, if any, resulting from the division.

26 (2) Articles of incorporation, certificates of
27 incorporation or other charter documents for each of the new
28 foreign business corporations, if any, resulting from the
29 division.

30 (c) Proposal and adoption.--Except as otherwise provided in

1 section 1953 (relating to division without shareholder
2 approval), the plan of division shall be proposed and adopted,
3 and may be amended after its adoption and terminated, by a
4 domestic business corporation in the manner provided for the
5 proposal, adoption, amendment and termination of a plan of
6 merger in Subchapter C (relating to merger, consolidation, share
7 exchanges and sale of assets), except section 1924(b) (relating
8 to adoption by board of directors), or, if the dividing
9 corporation is a foreign business corporation, in accordance
10 with the laws of the jurisdiction in which it is incorporated.
11 There shall be included in, or enclosed with, the notice of the
12 meeting of shareholders to act on the plan a copy or a summary
13 of the plan and, if Subchapter D of Chapter 15 (relating to
14 dissenters rights) is applicable, a copy of the subchapter and
15 of subsection (d).

16 (d) Dissenters rights in division.--

17 (1) Except as otherwise provided in paragraph (2), any
18 shareholder of a business corporation that adopts a plan of
19 division who objects to the plan and complies with the
20 provisions of Subchapter D of Chapter 15 shall be entitled to
21 the rights and remedies of dissenting shareholders therein
22 provided, if any. See section 1906(c) (relating to dissenters
23 rights upon special treatment).

24 (2) Except as otherwise provided pursuant to section
25 1571(c) (relating to grant of optional dissenters rights),
26 Subchapter D of Chapter 15 shall not apply to any of the
27 shares of a corporation that is a party to a plan of division
28 pursuant to section 1953 (relating to division without
29 shareholder approval).

30 (f) Action by holders of preferred or special shares.--If

1 the dividing corporation has outstanding any shares of any
2 preferred or special class or series, the holders of the
3 outstanding shares of the class or series shall be entitled to
4 vote as a class on the plan regardless of any limitations stated
5 in the articles or bylaws on the voting rights of the class or
6 series if the plan of division:

7 (1) provides that the dividing corporation will not
8 survive the division; or

9 (2) amends the articles or bylaws of the surviving
10 corporation in a manner that would entitle the holders of
11 such preferred or special shares to a class vote thereon
12 under the articles, bylaws or section 1914(b) (relating to
13 statutory voting rights).

14 (g) Rights of holders of indebtedness.--If any debt
15 securities, notes or similar evidences of indebtedness for money
16 borrowed, whether secured or unsecured, indentures or other
17 contracts were issued, incurred or executed by the dividing
18 corporation before August 21, 2001, and have not been amended
19 subsequent to that date, the liability of the dividing
20 corporation thereunder shall not be affected by the division nor
21 shall the rights of the obligees thereunder be impaired by the
22 division, and each of the resulting corporations may be
23 proceeded against or substituted in place of the dividing
24 corporation as joint and several obligors on such liability,
25 regardless of any provision of the plan of division apportioning
26 the liabilities of the dividing corporation.

27 (h) Special requirements.--If any provision of the articles
28 or bylaws of a dividing domestic business corporation adopted
29 before October 1, 1989, requires for the proposal or adoption of
30 a plan of merger, consolidation or asset transfer a specific

1 number or percentage of votes of directors or shareholders or
2 other special procedures, the plan of division shall not be
3 proposed or adopted by the directors or (if adoption by the
4 shareholders is otherwise required by this subchapter) adopted
5 by the shareholders without that number or percentage of votes
6 or compliance with the other special procedures.

7 (i) Reference to outside facts.--Any of the terms of a plan
8 of division may be made dependent upon facts ascertainable
9 outside of the plan if the manner in which the facts will
10 operate upon the terms of the plan is set forth in the plan.
11 Such facts may include, without limitation, actions or events
12 within the control of or determinations made by the dividing
13 corporation or a representative of the dividing corporation.
14 § 1953. Division without shareholder approval.

15 (a) General rule.--Unless otherwise restricted by its bylaws
16 or required by section 1952(f) (relating to action by holders of
17 preferred or special shares), a plan of division that does not
18 alter the state of incorporation of a business corporation,
19 provide for special treatment nor amend in any respect the
20 provisions of its articles (except amendments which under
21 section 1914(c) (relating to adoption by board of directors) may
22 be made without shareholder action) shall not require the
23 approval of the shareholders of the corporation if:

24 (1) the dividing corporation has only one class of
25 shares outstanding and the shares and other securities, if
26 any, of each corporation resulting from the plan are
27 distributed pro rata to the shareholders of the dividing
28 corporation;

29 (2) the dividing corporation survives the division and
30 all the shares and other securities and obligations, if any,

1 of all new corporations resulting from the plan are owned
2 solely by the surviving corporation; or

3 (3) the allocation of assets among the resulting
4 corporations effected by the division, if effected by means
5 of a sale, lease, exchange or other disposition, would not
6 require the approval of shareholders under section 1932(b)
7 (relating to shareholder approval required).

8 (b) Limitation.--A plan of division adopted by the board of
9 directors under this section without the approval of the
10 shareholders shall not, by itself, create or impair any rights
11 or obligations on the part of any person under section 2538
12 (relating to approval of transactions with interested
13 shareholders) or under Subchapters E (relating to control
14 transactions), F (relating to business combinations), G
15 (relating to control-share acquisitions), H (relating to
16 disgorgement by certain controlling shareholders following
17 attempts to acquire control), I (relating to severance
18 compensation for employees terminated following certain control-
19 share acquisitions) and J (relating to business combination
20 transactions - labor contracts) of Chapter 25, nor shall it
21 change the standard of care applicable to the directors under
22 Subchapter B of Chapter 17 (relating to fiduciary duty).

23 § 1954. Articles of division.

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

29 (1) The name and the location of the registered office,
30 including street and number, if any, of the dividing domestic

1 business corporation or, in the case of a dividing foreign
2 business corporation, the name of the corporation and the
3 jurisdiction in which it is incorporated, together with
4 either:

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

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

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

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

15 (4) The name and the address, including street and
16 number, if any, of the registered office of each new domestic
17 business corporation or qualified foreign business
18 corporation resulting from the division.

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

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

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

27 § 1955. Filing of articles of division.

28 (a) General rule.--The articles of division, and the
29 certificates or statement, if any, required by section 139
30 (relating to tax clearance of certain fundamental transactions)

1 shall be filed in the Department of State.

2 (b) Cross references.--See sections 134 (relating to
3 docketing statement) and 135 (relating to requirements to be met
4 by filed documents).

5 § 1956. Effective date of division.

6 Upon the filing of articles of division in the Department of
7 State or upon the effective date specified in the plan of
8 division, whichever is later, the division shall become
9 effective. The division of a domestic business corporation into
10 one or more foreign business corporations or the division of a
11 foreign business corporation shall be effective according to the
12 laws of the jurisdictions where the foreign corporations are or
13 are to be incorporated, but not until articles of division have
14 been adopted and filed as provided in this subchapter.

15 § 1957. Effect of division.

16 (a) Multiple resulting corporations.--Upon the division
17 becoming effective, the dividing corporation shall be subdivided
18 into the distinct and independent resulting corporations named
19 in the plan of division and, if the dividing corporation is not
20 to survive the division, the existence of the dividing
21 corporation shall cease. The resulting corporations, if they are
22 domestic business corporations, shall not thereby acquire
23 authority to engage in any business or exercise any right that a
24 corporation may not be incorporated under this subpart to engage
25 in or exercise. Any resulting foreign business corporation that
26 is stated in the articles of division to be a qualified foreign
27 business corporation shall be a qualified foreign business
28 corporation under Article D (relating to foreign business
29 corporations), and the articles of division shall be deemed to
30 be the application for a certificate of authority and the

1 certificate of authority issued thereon of the corporation.

2 (b) Property rights; allocations of assets and
3 liabilities.--

4 (1) (i) All the property, real, personal and mixed, and
5 franchises of the dividing corporation, and all debts due
6 on whatever account to it, including subscriptions for
7 shares and other choses in action belonging to it, shall
8 (except as otherwise provided in paragraph (2)), to the
9 extent allocations of assets are contemplated by the plan
10 of division, be deemed without further action to be
11 allocated to and vested in the resulting corporations on
12 such a manner and basis and with such effect as is
13 specified in the plan, or per capita among the resulting
14 corporations, as tenants in common, if no specification
15 is made in the plan, and the title to any real estate, or
16 interest therein, vested in any of the corporations shall
17 not revert or be in any way impaired by reason of the
18 division.

19 (ii) Upon the division becoming effective, the
20 resulting corporations shall each thenceforth be
21 responsible as separate and distinct corporations only
22 for such liabilities as each corporation may undertake or
23 incur in its own name but shall be liable for the
24 liabilities of the dividing corporation in the manner and
25 on the basis provided in subparagraphs (iv) and (v).

26 (iii) Liens upon the property of the dividing
27 corporation shall not be impaired by the division.

28 (iv) Except as provided in section 1952(g) (relating
29 to proposal and adoption of plan of division), to the
30 extent allocations of liabilities are contemplated by the

1 plan of division, the liabilities of the dividing
2 corporation shall be deemed without further action to be
3 allocated to and become the liabilities of the resulting
4 corporations on such a manner and basis and with such
5 effect as is specified in the plan; and one or more, but
6 less than all, of the resulting corporations shall be
7 free of the liabilities of the dividing corporation to
8 the extent, if any, specified in the plan, if in either
9 case:

10 (A) no fraud on minority shareholders or
11 shareholders without voting rights or violation of
12 law shall be effected thereby; and

13 (B) the plan does not constitute a fraudulent
14 transfer under 12 Pa.C.S. Ch. 51 (relating to
15 fraudulent transfers).

16 (v) If the conditions in subparagraph (iv) for
17 freeing one or more of the resulting corporations from
18 the liabilities of the dividing corporation or for
19 allocating some or all of the liabilities of the dividing
20 corporation are not satisfied, the liabilities of the
21 dividing corporation as to which those conditions are not
22 satisfied shall not be affected by the division nor shall
23 the rights of creditors thereunder be impaired by the
24 division and any claim existing or action or proceeding
25 pending by or against the corporation with respect to
26 those liabilities may be prosecuted to judgment as if the
27 division had not taken place, or the resulting
28 corporations may be proceeded against or substituted in
29 place of the dividing corporation as joint and several
30 obligors on those liabilities, regardless of any

1 provision of the plan of division apportioning the
2 liabilities of the dividing corporation.

3 (vi) The conditions in subparagraph (iv) for freeing
4 one or more of the resulting corporations from the
5 liabilities of the dividing corporation and for
6 allocating some or all of the liabilities of the dividing
7 corporation shall be conclusively deemed to have been
8 satisfied if the plan of division has been approved by
9 the Department of Banking, the Insurance Department or
10 the Pennsylvania Public Utility Commission in a final
11 order issued after August 21, 2001, that has become not
12 subject to further appeal.

13 (2) (i) The allocation of any fee or freehold interest
14 or leasehold having a remaining term of 30 years or more
15 in any tract or parcel of real property situate in this
16 Commonwealth owned by a dividing corporation (including
17 property owned by a foreign business corporation dividing
18 solely under the law of another jurisdiction) to a new
19 corporation resulting from the division shall not be
20 effective until one of the following documents is filed
21 in the office for the recording of deeds of the county,
22 or each of them, in which the tract or parcel is
23 situated:

24 (A) A deed, lease or other instrument of
25 confirmation describing the tract or parcel.

26 (B) A duly executed duplicate original copy of
27 the articles of division.

28 (C) A copy of the articles of division certified
29 by the Department of State.

30 (D) A declaration of acquisition setting forth

1 the value of real estate holdings in such county of
2 the corporation as an acquired company.

3 (ii) The provisions of 75 Pa.C.S. § 1114 (relating
4 to transfer of vehicle by operation of law) shall not be
5 applicable to an allocation of ownership of any motor
6 vehicle, trailer or semitrailer to a new corporation
7 under this section or under a similar law of any other
8 jurisdiction but any such allocation shall be effective
9 only upon compliance with the requirements of 75 Pa.C.S.
10 § 1116 (relating to issuance of new certificate following
11 transfer).

12 (3) It shall not be necessary for a plan of division to
13 list each individual asset or liability of the dividing
14 corporation to be allocated to a new corporation so long as
15 those assets and liabilities are described in a reasonable
16 manner.

17 (4) Each new corporation shall hold any assets and
18 liabilities allocated to it as the successor to the dividing
19 corporation, and those assets and liabilities shall not be
20 deemed to have been assigned to the new corporation in any
21 manner, whether directly or indirectly or by operation of
22 law.

23 (c) Taxes.--Any taxes, interest, penalties and public
24 accounts of the Commonwealth claimed against the dividing
25 corporation that are settled, assessed or determined prior to or
26 after the division shall be the liability of any of the
27 resulting corporations and, together with interest thereon,
28 shall be a lien against the franchises and property, both real
29 and personal, of all the corporations. Upon the application of
30 the dividing corporation, the Department of Revenue, with the

1 concurrence of the Office of Employment Security of the
2 Department of Labor and Industry, shall release one or more, but
3 less than all, of the resulting corporations from liability and
4 liens for all taxes, interest, penalties and public accounts of
5 the dividing corporation due the Commonwealth for periods prior
6 to the effective date of the division if those departments are
7 satisfied that the public revenues will be adequately secured.

8 (d) Articles of surviving corporation.--The articles of
9 incorporation of the surviving corporation, if there be one,
10 shall be deemed to be amended to the extent, if any, that
11 changes in its articles are stated in the plan of division.

12 (e) Articles of new corporations.--The statements that are
13 set forth in the plan of division with respect to each new
14 domestic business corporation and that are required or permitted
15 to be set forth in restated articles of incorporation of
16 corporations incorporated under this subpart, or the articles of
17 incorporation of each new corporation set forth therein, shall
18 be deemed to be the articles of incorporation of each new
19 corporation.

20 (f) Directors and officers.--Unless otherwise provided in
21 the plan, the directors and officers of the dividing corporation
22 shall be the initial directors and officers of each of the
23 resulting corporations.

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

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

30 (2) the holders of the common or other residuary shares

1 of the dividing corporation pro rata, in any other case.

2 (h) Conflict of laws.--It is the intent of the General
3 Assembly that:

4 (1) The effect of a division of a domestic business
5 corporation shall be governed solely by the laws of this
6 Commonwealth and any other jurisdiction under the laws of
7 which any of the resulting corporations is incorporated.

8 (2) The effect of a division on the assets and
9 liabilities of the dividing corporation shall be governed
10 solely by the laws of this Commonwealth and any other
11 jurisdiction under the laws of which any of the resulting
12 corporations is incorporated.

13 (3) The validity of any allocations of assets or
14 liabilities by a plan of division of a domestic business
15 corporation, regardless of whether or not any of the new
16 corporations is a foreign business corporation, shall be
17 governed solely by the laws of this Commonwealth.

18 (4) In addition to the express provisions of this
19 subsection, this subchapter shall otherwise generally be
20 granted the protection of full faith and credit under the
21 Constitution of the United States.

22 SUBCHAPTER E

23 CONVERSION

24 § 1961. Conversion authorized.

25 (a) General rule.--Any business corporation may, in the
26 manner provided in this subchapter, be converted into a
27 nonprofit corporation, designated in this subchapter as the
28 resulting corporation.

29 (b) Exceptions.--This subchapter shall not authorize any
30 conversion involving:

1 (1) Beneficial, benevolent, fraternal or fraternal
2 benefit societies having a lodge system and a representative
3 form of government, or transacting any type of insurance
4 whatsoever.

5 (2) Any corporation that by the laws of this
6 Commonwealth is subject to the supervision of the Department
7 of Banking, the Insurance Department or the Pennsylvania
8 Public Utility Commission, unless the agency expressly
9 approves the transaction in writing.

10 § 1962. Proposal and adoption of plan of conversion.

11 (a) Preparation of plan.--A plan of conversion shall be
12 prepared, setting forth:

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

14 (2) A restatement of the articles of the resulting
15 corporation, which articles shall comply with the
16 requirements of this part relating to nonprofit corporations.

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

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

23 (b) Proposal and adoption.--The plan of conversion shall be
24 proposed and adopted, and may be amended after its adoption and
25 terminated, by the business corporation in the manner provided
26 for the proposal, adoption, amendment and termination of a plan
27 of merger in Subchapter C (relating to merger, consolidation,
28 share exchanges and sale of assets), except section 1924(b)
29 (relating to adoption by board of directors). There shall be
30 included in, or enclosed with, the notice of meeting of

1 shareholders of the business corporation that will act upon the
2 plan a copy or a summary of the plan and of Subchapter D of
3 Chapter 15 (relating to dissenters rights) and of subsection
4 (c).

5 (c) Dissenters rights in conversion.--Any shareholder of a
6 business corporation that adopts a plan of conversion into a
7 nonprofit corporation who objects to the plan of conversion and
8 complies with the provisions of Subchapter D of Chapter 15 shall
9 be entitled to the rights and remedies of dissenting
10 shareholders therein provided.

11 (d) Reference to outside facts.--Any of the terms of a plan
12 of conversion may be made dependent upon facts ascertainable
13 outside of the plan if the manner in which the facts will
14 operate upon the terms of the plan is set forth in the plan.
15 Such facts may include, without limitation, actions or events
16 within the control of or determinations made by the corporation
17 or a representative of the corporation.

18 § 1963. Articles of conversion.

19 Upon the adoption of a plan of conversion by the business
20 corporation desiring to convert, as provided in this subchapter,
21 articles of conversion shall be executed by the corporation and
22 shall set forth:

23 (1) The name of the corporation and, subject to section
24 109 (relating to name of commercial registered office
25 provider in lieu of registered address), the address,
26 including street and number, if any, of its registered
27 office.

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

30 (3) If the plan is to be effective on a specified date,

1 the hour, if any, and the month, day and year of the
2 effective date.

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

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

8 § 1964. Filing of articles of conversion.

9 (a) General rule.--The articles of conversion shall be filed
10 in the Department of State.

11 (b) Cross reference.--See section 134 (relating to docketing
12 statement).

13 § 1965. Effective date of conversion.

14 Upon the filing of articles of conversion in the Department
15 of State or upon the effective date specified in the plan of
16 conversion, whichever is later, the conversion shall become
17 effective.

18 § 1966. Effect of conversion.

19 Upon the conversion becoming effective, the converting
20 business corporation shall be deemed to be a nonprofit
21 corporation subject to the provisions of this part relating to
22 nonprofit corporations for all purposes, shall cease to be a
23 business corporation and shall not thereafter operate in any
24 manner resulting in pecuniary profit, incidental or otherwise,
25 to its members or shareholders. The corporation shall remain
26 liable for all existing obligations, public or private, and
27 taxes due the Commonwealth or any other taxing authority for
28 periods prior to the effective date of the conversion and, as a
29 nonprofit corporation, it shall continue to be entitled to all
30 assets theretofore pertaining to it as a business corporation.

1 § 1980. Dissolution by domestication.

2 Whenever a domestic business corporation has domesticated
3 itself under the laws of another jurisdiction by action similar
4 to that provided by section 4161 (relating to domestication) and
5 has authorized that action by the vote required by this
6 subchapter for the approval of a proposal that the corporation
7 dissolve voluntarily, the corporation may surrender its charter
8 under the laws of this Commonwealth by filing in the Department
9 of State articles of dissolution under this subchapter
10 containing the statement specified by section 1977(b)(1) through
11 (4) (relating to articles of dissolution). If the corporation as
12 domesticated in the other jurisdiction qualifies to do business
13 in this Commonwealth either prior to or simultaneously with the
14 filing of the articles of dissolution under this section, the
15 corporation shall not be required to file with the articles of
16 dissolution the tax clearance certificates that would otherwise
17 be required by section 139 (relating to tax clearance of certain
18 fundamental transactions).]

19 Section 24. Sections 2101(c), 2121, 2301(c), 2501(b) and
20 (c), 2521, 2538(a)(1) and (2) and (b), 2539, 2701(b), 2721,
21 2901(c), 2921(b), 3101(c), 3301(c) and 3304(b) of Title 15 are
22 amended to read:

23 § 2101. Application and effect of chapter.

24 * * *

25 (c) Laws applicable to nonstock corporations.--Except as
26 otherwise provided in this chapter, Part I (relating to
27 preliminary provision) and this subpart shall be generally
28 applicable to all nonstock corporations. The specific provisions
29 of this chapter shall control over the general provisions of
30 Part I and this subpart. In the case of a nonstock corporation,

1 references in this part to "shares," "shareholder," "share
2 register," "share ledger," "transfer book for shares," "number
3 of shares entitled to vote" or "class of shares" shall mean
4 memberships, member, membership register, membership ledger,
5 membership transfer book, number of votes entitled to be cast or
6 class of members, respectively. Except as otherwise provided in
7 this article, a nonstock corporation may be simultaneously
8 subject to this chapter and one or more other chapters of this
9 article.

10 § 2121. Corporate name of nonstock corporations.

11 (a) General rule.--The corporate name of a nonstock
12 corporation may contain the word "mutual."

13 (b) Insurance names.--See section [1303(c)(1)(iii) (relating
14 to corporate name)] 202(c)(1)(iii) (relating to requirements for
15 names generally).

16 § 2301. Application and effect of chapter.

17 * * *

18 (c) Laws applicable to statutory close corporations.--Except
19 as otherwise provided in this chapter, Part I (relating to
20 preliminary provisions) and this subpart shall be generally
21 applicable to all statutory close corporations. The specific
22 provisions of this chapter shall control over the general
23 provisions of Part I and this subpart. Except as otherwise
24 provided in this article, a statutory close corporation may be
25 simultaneously subject to this chapter and one or more other
26 chapters of this article.

27 * * *

28 § 2501. Application and effect of chapter.

29 * * *

30 (b) Laws applicable to registered corporations.--Except as

1 otherwise provided in this chapter, Part I (relating to
2 preliminary provisions) and this subpart shall be generally
3 applicable to all registered corporations. The specific
4 provisions of this chapter shall control over the general
5 provisions of Part I and this subpart. Except as otherwise
6 provided in this article, a registered corporation may be
7 simultaneously subject to this chapter and one or more other
8 chapters of this article.

9 (c) Effect of a contrary provision of the articles.--

10 (1) [The] Except as provided in section 2521 (relating
11 to call of special meetings of shareholders), the articles of
12 a registered corporation may provide either expressly or by
13 necessary implication that any one or more of the provisions
14 of Subchapters B (relating to powers, duties and safeguards),
15 C (relating to directors and shareholders) and D (relating to
16 fundamental changes generally) shall not be applicable in
17 whole or in part to the corporation.

18 (2) The articles of a registered corporation may provide
19 that any one or more of the provisions of Subchapter E
20 (relating to control transactions) and following of this
21 chapter shall not be applicable in whole or in part to the
22 corporation only if, to the extent and in the manner,
23 expressly permitted by the subchapter the applicability of
24 which is so affected. Where any provision of Subchapter E and
25 following of this chapter permits the applicability of a
26 subchapter to be varied by a provision of the articles, the
27 applicability may be varied by an amendment of the articles
28 only if, to the extent and in the manner, expressly permitted
29 by the subchapter the applicability of which is so affected.

30 * * *

1 § 2521. Call of special meetings of shareholders.

2 (a) General rule.--The shareholders of a registered
3 corporation shall not be entitled by statute to call a special
4 meeting of the shareholders.

5 (b) Exception.--Subsection (a) shall not apply to the call
6 of a special meeting by an interested shareholder (as defined in
7 section 2553 (relating to interested shareholder)) for the
8 purpose of approving a business combination under section
9 2555(3) or (4) (relating to requirements relating to certain
10 business combinations).

11 (c) Contrary articles provision.--A provision of the
12 articles of a registered corporation described in section
13 2502(1) (relating to registered corporation status) adopted
14 after July 1, 2015, may not provide that a special meeting may
15 be called by less than 25% of the votes that all shareholders
16 would be entitled to cast at the meeting.

17 § 2538. Approval of transactions with interested shareholders.

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

24 (1) Any transaction authorized under Subchapter C of
25 Chapter 19 (relating to merger[,consolidation, share
26 exchanges] liabilities and sale of assets) or Subchapter C
27 (relating to merger) or D (relating to interest exchange) of
28 Chapter 3 between a registered corporation or subsidiary
29 thereof and a shareholder of the registered corporation.

30 (2) Any transaction authorized under Subchapter [D] F of

1 Chapter [19] 3 (relating to division) in which the interested
2 shareholder receives a disproportionate amount of any of the
3 shares or other securities of any corporation surviving or
4 resulting from the plan of division.

5 * * *

6 (b) Exceptions.--Subsection (a) shall not apply to a
7 transaction:

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

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

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

17 (2) in which the consideration to be received by the
18 shareholders for shares of any class of which shares are
19 owned by the interested shareholder is not less than the
20 highest amount paid by the interested shareholder in
21 acquiring shares of the same class; or

22 (3) effected pursuant to section [1924(b) (1) (ii)
23 (relating to adoption by board of directors)] 321(d) (1) (ii)
24 (relating to approval by business corporation).

25 * * *

26 § 2539. Adoption of plan of merger by board of directors.

27 Section [1924(b) (1) (ii) (relating to adoption by board of
28 directors)] 321(d) (1) (ii) (relating to approval by business
29 corporation) shall be applicable to a plan relating to a merger
30 [or consolidation] to which a registered corporation described

1 in section 2502(1)(i) (relating to registered corporation
2 status) is a party only if the plan:

3 (1) has been approved by the board of directors of the
4 registered corporation; and

5 (2) is consistent with the requirements, if applicable,
6 of Subchapter F (relating to business combinations).

7 § 2701. Application and effect of chapter.

8 * * *

9 (b) Laws applicable to management corporations.--Except as
10 otherwise provided in this chapter, Part I (relating to
11 preliminary provisions) and this subpart shall be generally
12 applicable to all management corporations. The specific
13 provisions of this chapter shall control over the general
14 provisions of Part I and this subpart. Except as otherwise
15 provided in this article, a management corporation may be
16 simultaneously subject to this chapter and one or more other
17 chapters of this article.

18 * * *

19 § 2721. Bylaw and fundamental change procedures.

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

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

30 (2) [An amendment or plan shall not be adopted under

1 Chapter 19 (relating to fundamental changes), and a bylaw
2 shall not be adopted or changed by the shareholders, without
3 the approval of the board of directors.] None of the
4 following shall be adopted or changed by the shareholders
5 without the approval of the board of directors:

6 (i) a plan under Chapter 3 (relating to entity
7 transactions);

8 (ii) an amendment of the articles;

9 (iii) an amendment, adoption or repeal of a bylaw;

10 (iv) a plan of asset transfer; or

11 (v) a resolution recommending dissolution.

12 (3) In the case of a corporation that in the ordinary
13 course of business redeems all outstanding shares at the
14 option of the shareholder at the net asset value or at
15 another agreed method or amount of value thereof, [an
16 amendment or plan under Chapter 19] a plan under Chapter 3,
17 an amendment of the articles or a plan of asset transfer
18 under section 1932 (relating to voluntary transfer of
19 corporate assets) shall not require the approval of the
20 shareholders of the corporation for adoption by the
21 corporation.

22 § 2901. Application and effect of chapter.

23 * * *

24 (c) Laws applicable to professional corporations.--Except as
25 otherwise provided in this chapter, Part I (relating to
26 preliminary provisions) and this subpart shall be generally
27 applicable to all professional corporations. The specific
28 provisions of this chapter shall control over the general
29 provisions of Part I and this subpart. Except as otherwise
30 provided in this article, a professional corporation may be

1 simultaneously subject to this chapter and one or more other
2 chapters of this article.

3 § 2921. Corporate name.

4 * * *

5 (b) Additional names permitted.--The provisions of section
6 [1303(a) (relating to corporate name)] 202 (relating to
7 requirements for names generally) shall not prohibit the use of
8 a name of a professional corporation if the name contains and is
9 restricted to the name or the last name of one or more of the
10 present, prospective or former shareholders or of individuals
11 who were associated with a predecessor or whose individual name
12 or names appeared in the name of the predecessor. The name may
13 also contain:

14 (1) the word "and" or any symbol or substitute therefor;

15 (2) the word "associates";

16 (3) the term "P.C."; or

17 (4) any or all of the words or terms in paragraphs (1),

18 (2) and (3).

19 § 3101. Application and effect of chapter.

20 * * *

21 (c) Laws applicable to insurance corporations.--Except as
22 otherwise provided in this chapter, Part I (relating to
23 preliminary provisions) and this subpart shall be generally
24 applicable to all insurance corporations. The specific
25 provisions of this chapter shall control over the general
26 provisions of Part I and this subpart. Except as otherwise
27 provided in this article, an insurance corporation may be
28 simultaneously subject to this chapter and one or more other
29 chapters of this article.

30 § 3301. Application and effect of chapter.

1 * * *

2 (c) Laws applicable to benefit corporations.--Except as
3 otherwise provided in this chapter, Part I (relating to
4 preliminary provisions) and this subpart shall apply generally
5 to benefit corporations. The [specific] provisions of this
6 chapter shall control over [the general provisions of this
7 subpart] inconsistent provisions of this title. A benefit
8 corporation may be simultaneously subject to this chapter and
9 one or more other chapters of this article.

10 * * *

11 § 3304. Election of benefit corporation status.

12 * * *

13 (b) Fundamental transactions.--If an association that is not
14 a benefit corporation is a party to a merger[, consolidation] or
15 division or is the exchanging association in [a share] an
16 interest exchange, and the surviving, new or any resulting
17 association in the merger, [consolidation,] division or [share]
18 interest exchange is to be a benefit corporation, then the plan
19 of merger, [consolidation,] division or [share] interest
20 exchange shall not be effective unless it is adopted by the
21 [corporation] association by at least the minimum status vote.

22 Section 25. Sections 4121, 4122 and 4123 of Title 15 are
23 repealed:

24 [§ 4121. Admission of foreign corporations.

25 (a) General rule.--A foreign business corporation, before
26 doing business in this Commonwealth, shall procure a certificate
27 of authority to do so from the Department of State, in the
28 manner provided in this subchapter. A foreign business
29 corporation shall not be denied a certificate of authority by
30 reason of the fact that the laws of the jurisdiction governing

1 its incorporation and internal affairs differ from the laws of
2 this Commonwealth.

3 (b) Qualification under former statutes.--If a foreign
4 corporation for profit was on March 19, 1966, admitted to do
5 business in this Commonwealth by the filing of a power of
6 attorney and statement under the act of June 8, 1911 (P.L.710,
7 No.283), the power of attorney and statement shall be deemed an
8 approved application for a certificate of authority issued under
9 this subchapter and the corporation shall be deemed a holder of
10 the certificate. The corporation shall include in its initial
11 application, if any, for an amended certificate of authority
12 under this subchapter the information required by this
13 subchapter to be set forth in an application for a certificate
14 of authority. A certificate of authority issued under the former
15 provisions of the Business Corporation Law of 1933 shall be
16 deemed to be issued under this subchapter, and the certificate
17 of authority shall be deemed not to contain any reference to the
18 kind of business that the corporation proposes to do in this
19 Commonwealth.

20 (c) Foreign insurance corporations.--A foreign insurance
21 corporation shall not be required to procure a certificate of
22 authority under this subchapter.

23 § 4122. Excluded activities.

24 (a) General rule.--Without excluding other activities that
25 may not constitute doing business in this Commonwealth, a
26 foreign business corporation shall not be considered to be doing
27 business in this Commonwealth for the purposes of this
28 subchapter by reason of carrying on in this Commonwealth any one
29 or more of the following acts:

30 (1) Maintaining or defending any action or

1 administrative or arbitration proceeding or effecting the
2 settlement thereof or the settlement of claims or disputes.

3 (2) Holding meetings of its directors or shareholders or
4 carrying on other activities concerning its internal affairs.

5 (3) Maintaining bank accounts.

6 (4) Maintaining offices or agencies for the transfer,
7 exchange and registration of its securities or appointing and
8 maintaining trustees or depositaries with relation to its
9 securities.

10 (5) Effecting sales through independent contractors.

11 (6) Soliciting or procuring orders, whether by mail or
12 through employees or agents or otherwise, and maintaining
13 offices therefor, where the orders require acceptance without
14 this Commonwealth before becoming binding contracts.

15 (7) Creating as borrower or lender, acquiring or
16 incurring, obligations or mortgages or other security
17 interests in real or personal property.

18 (8) Securing or collecting debts or enforcing any rights
19 in property securing them.

20 (9) Transacting any business in interstate or foreign
21 commerce.

22 (10) Conducting an isolated transaction completed within
23 a period of 30 days and not in the course of a number of
24 repeated transactions of like nature.

25 (11) Inspecting, appraising and acquiring real estate
26 and mortgages and other liens thereon and personal property
27 and security interests therein, and holding, leasing,
28 conveying and transferring them, as fiduciary or otherwise.

29 (b) Exceptions.--The specification of activities in
30 subsection (a) does not establish a standard for activities that

1 may subject a foreign business corporation to:

2 (1) Service of process under any statute or general
3 rule.

4 (2) Taxation by the Commonwealth or any political
5 subdivision thereof.

6 § 4123. Requirements for foreign corporation names.

7 (a) General rule.--The Department of State shall not issue a
8 certificate of authority to any foreign business corporation
9 that, except as provided in subsection (b), has a name that is
10 rendered unavailable for use by a domestic business corporation
11 by any provision of section 1303(a), (b) or (c) (relating to
12 corporate name), except subsection (c)(1)(ii) thereof (relating
13 to banking names).

14 (b) Exceptions.--

15 (1) The provisions of section 1303(b) (relating to
16 duplicate use of names) shall not prevent the issuance of a
17 certificate of authority to a foreign business corporation
18 setting forth a name that is not distinguishable upon the
19 records of the department from the name of any other domestic
20 or foreign corporation for profit or corporation not-for-
21 profit, or of any corporation or other association then
22 registered under 54 Pa.C.S. Ch. 5 (relating to corporate and
23 other association names) or to any name reserved or
24 registered as provided in this part, if the foreign business
25 corporation applying for a certificate of authority files in
26 the department a resolution of its board of directors
27 adopting a fictitious name for use in transacting business in
28 this Commonwealth, which fictitious name is distinguishable
29 upon the records of the department from the name of the other
30 corporation or other association or from any name reserved or

1 registered as provided in this part and that is otherwise
2 available for use by a domestic business corporation.

3 (2) The provisions of section 1303(c) (relating to
4 required approvals or conditions) shall not prevent the
5 issuance of a certificate of authority to a foreign business
6 corporation setting forth a name that is prohibited by that
7 subsection if the foreign business corporation applying for a
8 certificate of authority files in the department a resolution
9 of its board of directors adopting a fictitious name for use
10 in transacting business in this Commonwealth that is
11 available for use by a domestic business corporation.]

12 Section 26. Section 4124 of Title 15 is amended to read:

13 § 4124. [Application for a certificate of authority.]

14 Advertisement of registration to do business.

15 [(a) General rule.--An application for a certificate of
16 authority shall be executed by the foreign business corporation
17 and shall set forth:

18 (1) The name of the corporation.

19 (2) The name of the jurisdiction under the laws of which
20 it is incorporated.

21 (3) The address, including street and number, if any, of
22 its principal office under the laws of the jurisdiction in
23 which it is incorporated.

24 (4) Subject to section 109 (relating to name of
25 commercial registered office provider in lieu of registered
26 address), the address, including street and number, if any,
27 of its proposed registered office in this Commonwealth.

28 (5) A statement that it is a corporation incorporated
29 for a purpose or purposes involving pecuniary profit,
30 incidental or otherwise.

1 (b) Advertisement.--]A foreign business corporation shall
2 officially publish notice of its intention to [apply or its
3 application for a certificate of authority] register to do
4 business or its registration to do business in this Commonwealth
5 under Chapter 4 (relating to foreign associations). The notice
6 may appear prior to or after the day on which [application is
7 made to the Department of State] a registration statement is
8 delivered to the department for filing and shall set forth
9 briefly:

10 (1) A statement that the corporation will [apply or has
11 applied for a certificate of authority under the provisions
12 of the Business Corporation Law of 1988] register or has
13 registered to do business in this Commonwealth under Chapter
14 4.

15 (2) The name of the corporation and [of the jurisdiction
16 under the laws of which it is incorporated] its jurisdiction
17 of formation.

18 (3) The address, including street and number, if any, of
19 its principal office under the laws of [the jurisdiction in
20 which it is incorporated] its jurisdiction of formation.

21 (4) Subject to section 109, the address, including
22 street and number, if any, of its proposed registered office
23 in this Commonwealth.

24 (c) [Filing.--The application for a certificate of authority
25 shall be filed in the Department of State.] (Reserved).

26 (d) [Cross reference.--See section 134 (relating to
27 docketing statement).] (Reserved).

28 Section 27. Sections 4125, 4126, 4127, 4128 of Title 15 are
29 repealed:

30 [§ 4125. Issuance of certificate of authority.

1 Upon the filing of the application for a certificate of
2 authority, the foreign business corporation shall be deemed to
3 hold a certificate of authority to do business in this
4 Commonwealth.

5 § 4126. Amended certificate of authority.

6 (a) General rule.--After receiving a certificate of
7 authority, a qualified foreign business corporation may, subject
8 to the provisions of this subchapter, change or correct any of
9 the information set forth in its application for a certificate
10 of authority or previous filings under this section by filing in
11 the Department of State an application for an amended
12 certificate of authority. The application shall be executed by
13 the corporation and shall state:

14 (1) The name under which the applicant corporation
15 currently holds a certificate of authority to do business in
16 this Commonwealth.

17 (2) Subject to section 109 (relating to name of
18 commercial registered office provider in lieu of registered
19 address), the address, including street and number, if any,
20 of its registered office in this Commonwealth.

21 (3) The information to be changed or corrected.

22 (4) If the application reflects a change in the name of
23 the corporation, the application shall include a statement
24 that either:

25 (i) the change of name reflects a change effected in
26 the jurisdiction of incorporation; or

27 (ii) documents complying with section 4123(b)
28 (relating to exceptions) accompany the application.

29 (b) Issuance of amended certificate of authority.--Upon the
30 filing of the application, the applicant corporation shall be

1 deemed to hold an amended certificate of authority.

2 (c) Cross references.--See sections 134 (relating to
3 docketing statement) and 135 (relating to requirements to be met
4 by filed documents).

5 § 4127. Merger, consolidation or division of qualified foreign
6 corporations.

7 (a) General rule.--Whenever a qualified foreign business
8 corporation is a nonsurviving party to a statutory merger,
9 consolidation or division permitted by the laws of the
10 jurisdiction under which it is incorporated, the corporation or
11 other association surviving the merger, or the new corporation
12 or other association resulting from the consolidation or
13 division, as the case may be, shall file in the department a
14 statement of merger, consolidation or division, which shall be
15 executed by the surviving or new corporation or other
16 association and shall set forth:

17 (1) The name of each nonsurviving qualified foreign
18 business corporation.

19 (2) The name of the jurisdictions under the laws of
20 which each nonsurviving qualified foreign business
21 corporation was incorporated.

22 (3) The date on which each nonsurviving qualified
23 foreign business corporation received a certificate of
24 authority to do business in this Commonwealth.

25 (4) A statement that the corporate existence of each
26 nonsurviving qualified foreign business corporation has been
27 terminated by merger, consolidation or division, as the case
28 may be.

29 (5) In the case of a merger, consolidation or division
30 in which any of the new or resulting associations is a

1 corporation, or if the surviving corporation in a merger was
2 a nonqualified foreign business corporation prior to the
3 merger, the statements on the part of the surviving or each
4 new or resulting corporation required by section 4124(a)
5 (relating to application for a certificate of authority).

6 (b) Effect of filing.--The filing of the statement shall
7 operate, as of the effective date of the merger, consolidation
8 or division, to cancel the certificate of authority of each
9 nonsurviving constituent corporation that was a qualified
10 foreign business corporation and to qualify the surviving, new
11 or resulting corporations, under this subchapter. If the
12 surviving, new or resulting corporations do not desire to
13 continue as qualified foreign business corporations, they may
14 thereafter withdraw in the manner provided by section 4129
15 (relating to application for termination of authority).

16 (c) Surviving qualified foreign corporations.--It shall not
17 be necessary for a surviving corporation that was a qualified
18 foreign business corporation to effect any filing under this
19 subchapter with respect to a merger or division or to procure an
20 amended certificate of authority to do business in this
21 Commonwealth unless the name of the corporation is changed by
22 the merger or division.

23 (d) Cross references.--See sections 134 (relating to
24 docketing statement) and 135 (relating to requirements to be met
25 by filed documents).

26 § 4128. Revocation of certificate of authority.

27 (a) General rule.--Whenever the Department of State finds
28 that a qualified foreign business corporation has failed to
29 secure an amended certificate of authority as required by this
30 subchapter after changing its name, or has failed or refused to

1 appear by its proper representatives, or otherwise to comply
2 with any subpoena issued by any court having jurisdiction of the
3 subject matter, or to produce books, papers, records or
4 documents as required by a subpoena, or is violating any of the
5 laws of this Commonwealth, or that its articles have been
6 revoked or voided by its jurisdiction of incorporation, the
7 department shall give notice and opportunity for hearing by
8 registered or certified mail to the corporation that the default
9 exists and that its certificate of authority, including any
10 amendments thereof, will be revoked unless the default is cured
11 within 30 days after the mailing of the notice. If the default
12 is not cured within the period of 30 days, the department shall
13 revoke the certificate of authority, including any amendments
14 thereof, of the foreign business corporation. Upon revoking the
15 certificate of authority, the department shall mail to the
16 corporation, at its registered office in this Commonwealth, a
17 certificate of revocation.

18 (b) Effect of revocation.--Upon the issuance of the
19 certificate of revocation, the authority of the corporation to
20 do business in this Commonwealth shall cease, and the
21 corporation shall not thereafter do any business in this
22 Commonwealth unless it applies for and receives a new
23 certificate of authority.

24 (c) Exception.--Subsections (a) and (b) shall not apply to a
25 foreign insurance corporation.]

26 Section 28. Section 4129 of Title 15 is amended to read:

27 § 4129. [Application for] Advertisement of termination of
28 [authority] registration to do business.

29 [(a) General rule.--Any qualified foreign business
30 corporation may withdraw from doing business in this

1 Commonwealth and surrender its certificate of authority by
2 filing in the Department of State an application for termination
3 of authority, executed by the corporation, which shall set
4 forth:

5 (1) The name of the corporation and, subject to section
6 109 (relating to name of commercial registered office
7 provider in lieu of registered address), the address,
8 including street and number, if any, of its last registered
9 office in this Commonwealth.

10 (2) The name of the jurisdiction under the laws of which
11 it is incorporated.

12 (3) The date on which it received a certificate of
13 authority to do business in this Commonwealth.

14 (4) A statement that it surrenders its certificate of
15 authority to do business in this Commonwealth.

16 (5) A statement that notice of its intention to withdraw
17 from doing business in this Commonwealth was mailed by
18 certified or registered mail to each municipal corporation in
19 which the registered office or principal place of business of
20 the corporation in this Commonwealth is located, and that the
21 official publication required by subsection (b) has been
22 effected.

23 (6) The post office address, including street and
24 number, if any, to which process may be sent in an action or
25 proceeding upon any liability incurred before the filing of
26 the application for termination of authority.]

27 (b) Advertisement.--A [qualified] registered foreign
28 business corporation shall, before filing [an application for
29 termination of authority] a statement under section 415
30 (relating to voluntary withdrawal of registration), officially

1 publish and mail a notice of its intention to withdraw from
2 doing business in this Commonwealth in a manner similar to that
3 required by section 1975(b) (relating to notice to creditors and
4 taxing authorities). The notice shall set forth [briefly]:

5 (1) The name of the corporation and [the jurisdiction
6 under the laws of which it is incorporated] its jurisdiction
7 of formation.

8 (2) The address, including street and number, if any, of
9 its principal office under the laws of its jurisdiction of
10 [incorporation] formation.

11 (3) Subject to section 109, the address, including
12 street and number, if any, of its last registered office in
13 this Commonwealth.

14 (c) [Filing.--The application for termination of authority
15 and the certificates or statement required by section 139
16 (relating to tax clearance of certain fundamental transactions)
17 shall be filed in the department. See section 134 (relating to
18 docketing statement).] (Reserved).

19 (d) [Effect of filing.--Upon the filing of the application
20 for termination of authority, the authority of the corporation
21 to do business in this Commonwealth shall cease. The termination
22 of authority shall not affect any action or proceeding pending
23 at the time thereof or affect any right of action arising with
24 respect to the corporation before the filing of the application
25 for termination of authority. Process against the corporation in
26 an action upon any liability incurred before the filing of the
27 application for termination of authority may be served as
28 provided in 42 Pa.C.S. Ch. 53 (relating to bases of jurisdiction
29 and interstate and international procedure) or as otherwise
30 provided or prescribed by law.] (Reserved).

1 Section 29. Sections 4130, 4131, 4141, 4142, 4143, 4144 and
2 Subchapter D of Chapter 41 of Title 15 are repealed:

3 [§ 4130. Change of address after withdrawal.

4 (a) General rule.--Any foreign business corporation that has
5 withdrawn from doing business in this Commonwealth, or its
6 successor in interest, may, from time to time, change the
7 address to which process may be sent in an action upon any
8 liability incurred before the filing of an application for
9 termination of authority by filing in the Department of State of
10 a statement of change of address by withdrawn corporation
11 executed by the corporation, setting forth:

12 (1) The name of the withdrawn corporation and, if the
13 statement is filed by a successor in interest, the name and
14 capacity of the successor.

15 (2) The name of the jurisdiction under the laws of which
16 the corporation filing the statement is incorporated.

17 (3) The former post office address, including street and
18 number, if any, of the withdrawn corporation as of record in
19 the department.

20 (4) The new post office address, including street and
21 number, if any, of the withdrawn corporation or its
22 successor.

23 (b) Cross reference.--See section 134 (relating to docketing
24 statement).

25 § 4131. Registration of name.

26 (a) General rule.--A nonqualified foreign business
27 corporation may register its name under 54 Pa.C.S. Ch. 5
28 (relating to corporate and other association names) if the name
29 is available for use by a qualified foreign business corporation
30 under section 4123 (relating to requirements for foreign

1 corporation names), by filing in the Department of State an
2 application for registration of name, executed by the
3 corporation, which shall set forth:

4 (1) The name of the corporation.

5 (2) The address, including street and number, if any, of
6 the corporation.

7 (b) Annual renewal.--A corporation that has in effect a
8 registration of its corporate name may renew the registration
9 from year to year by annually filing an application for renewal
10 setting forth the facts required to be set forth in an original
11 application for registration. A renewal application may be filed
12 between October 1 and December 31 in each year and shall extend
13 the registration for the following calendar year.

14 (c) Cross reference.--See section 134 (relating to docketing
15 statement).

16 § 4141. Penalty for doing business without certificate of
17 authority.

18 (a) Right to bring actions or proceedings suspended.--A
19 nonqualified foreign business corporation doing business in this
20 Commonwealth within the meaning of Subchapter B (relating to
21 qualification) shall not be permitted to maintain any action or
22 proceeding in any court of this Commonwealth until the
23 corporation has obtained a certificate of authority. Nor, except
24 as provided in subsection (b), shall any action or proceeding be
25 maintained in any court of this Commonwealth by any successor or
26 assignee of the corporation on any right, claim or demand
27 arising out of the doing of business by the corporation in this
28 Commonwealth until a certificate of authority has been obtained
29 by the corporation or by a corporation that has acquired all or
30 substantially all of its assets.

1 (b) Contracts, property and defense against actions
2 unaffected.--The failure of a foreign business corporation to
3 obtain a certificate of authority to transact business in this
4 Commonwealth shall not impair the validity of any contract or
5 act of the corporation, shall not prevent the corporation from
6 defending any action in any court of this Commonwealth and shall
7 not render escheatable any of its real or personal property.

8 § 4142. General powers and duties of qualified foreign
9 corporations.

10 (a) General rule.--A qualified foreign business corporation,
11 so long as its certificate of authority is not revoked, shall
12 enjoy the same rights and privileges as a domestic business
13 corporation, but no more, and, except as in this subpart
14 otherwise provided, shall be subject to the same liabilities,
15 restrictions, duties and penalties now in force or hereafter
16 imposed upon domestic business corporations, to the same extent
17 as if it had been incorporated under this subpart.

18 (b) Agricultural lands.--Interests in agricultural land
19 shall be subject to the restrictions of, and escheatable as
20 provided by, the act of April 6, 1980 (P.L.102, No.39), referred
21 to as the Agricultural Land Acquisition by Aliens Law.

22 (c) Foreign insurance corporations.--A foreign insurance
23 corporation shall, insofar as it is engaged in the business of
24 writing insurance or reinsurance as principal, be subject to the
25 laws of this Commonwealth regulating the business of insurance
26 in lieu of the provisions of subsection (a).

27 § 4143. General powers and duties of nonqualified foreign
28 corporations.

29 (a) Acquisition of real and personal property.--Every
30 nonqualified foreign business corporation may acquire, hold,

1 mortgage, lease and transfer real and personal property in this
2 Commonwealth in the same manner and subject to the same
3 limitations as a qualified foreign business corporation.

4 (b) Duties.--Except as provided in section 4141(a) (relating
5 to right to bring actions suspended), a nonqualified foreign
6 business corporation doing business in this Commonwealth within
7 the meaning of Subchapter B (relating to qualification) shall be
8 subject to the same liabilities, restrictions, duties and
9 penalties now or hereafter imposed upon a qualified foreign
10 business corporation.

11 § 4144. Registered office of qualified foreign corporations.

12 (a) General rule.--Subject to the provisions of section
13 1507(c) (relating to alternative procedure), every qualified
14 foreign business corporation shall have, and continuously
15 maintain, in this Commonwealth a registered office, which may
16 but need not be the same as its place of business in this
17 Commonwealth.

18 (b) Change.--A qualified foreign business corporation may,
19 from time to time, change the address of its registered office
20 in the manner provided by section 1507(b) (relating to statement
21 of change of registered office).

22 SUBCHAPTER D

23 DOMESTICATION

24 Sec.

25 4161. Domestication.

26 4162. Effect of domestication.

27 § 4161. Domestication.

28 (a) General rule.--Any qualified foreign business
29 corporation may become a domestic business corporation by filing
30 in the Department of State articles of domestication. The

1 articles of domestication, upon being filed in the department,
2 shall constitute the articles of the domesticated foreign
3 corporation, and it shall thereafter continue as a corporation
4 which shall be a domestic business corporation subject to this
5 subpart.

6 (b) Articles of domestication.--The articles of
7 domestication shall be executed by the corporation and shall set
8 forth in the English language:

9 (1) The name of the corporation. If the name is in a
10 foreign language, it shall be set forth in Roman letters or
11 characters or Arabic or Roman numerals. If the name is one
12 that is rendered unavailable by any provision of section
13 1303(b) or (c) (relating to corporate name), the corporation
14 shall adopt, in accordance with any procedures for changing
15 the name of the corporation that are applicable prior to the
16 domestication of the corporation, and shall set forth in the
17 articles of domestication an available name.

18 (2) Subject to section 109 (relating to name of
19 commercial registered office provider in lieu of registered
20 address), the address, including street and number, if any,
21 of its registered office in this Commonwealth.

22 (3) A statement that upon domestication the corporation
23 will be subject to the domestic corporation provisions of the
24 Business Corporation Law of 1988 and, if desired, a brief
25 statement of the purpose or purposes for which it is to be
26 domesticated which shall be a purpose or purposes for which a
27 domestic business corporation may be incorporated under
28 Article B (relating to domestic business corporations
29 generally) and which may consist of or include a statement
30 that the corporation shall have unlimited power to engage in

1 and to do any lawful act concerning any or all lawful
2 business for which corporations may be incorporated under the
3 Business Corporation Law of 1988.

4 (4) The term for which upon domestication it is to
5 exist, if not perpetual.

6 (5) Any desired provisions relating to the manner and
7 basis of reclassifying the shares of the corporation.

8 (6) A statement that the filing of articles of
9 domestication and, if desired, the renunciation of the
10 original charter or articles of the corporation has been
11 authorized (unless its charter or other organic documents
12 require a greater vote) by a majority of the votes cast by
13 all shareholders entitled to vote thereon and, if any class
14 of shares is entitled to vote thereon as a class, a majority
15 of the votes cast in each class vote.

16 (7) Any provisions desired providing special treatment
17 of shares held by any shareholder or group of shareholders if
18 the laws of the jurisdiction under which the corporation was
19 incorporated prior to its domestication permit such special
20 treatment.

21 (8) Any other provisions authorized by Article B to be
22 set forth in the original articles.

23 (c) Cross references.--See sections 134 (relating to
24 docketing statement) and 135 (relating to requirements to be met
25 by filed documents).

26 § 4162. Effect of domestication.

27 (a) General rule.--As a domestic business corporation, the
28 domesticated corporation shall no longer be a foreign business
29 corporation for the purposes of this subpart and shall, instead,
30 be a domestic business corporation with all the powers and

1 privileges and all the duties and limitations granted and
2 imposed upon domestic business corporations. In all other
3 respects, the domesticated corporation shall be deemed to be the
4 same corporation as it was prior to the domestication without
5 any change in or effect on its existence. Without limiting the
6 generality of the previous sentence, the domestication shall not
7 be deemed to have affected in any way:

8 (1) the right and title of the corporation in and to its
9 assets, property, franchises, estates and choses in action;

10 (2) the liability of the corporation for its debts,
11 obligations, penalties and public accounts due the
12 Commonwealth;

13 (3) any liens or other encumbrances on the property or
14 assets of the corporation; or

15 (4) any contract, license or other agreement to which
16 the corporation is a party or under which it has any rights
17 or obligations.

18 (b) Reclassification of shares.--The shares of the
19 domesticated corporation shall be unaffected by the
20 domestication except to the extent, if any, reclassified in the
21 articles of domestication.]

22 Section 30. Sections 5103(a) introductory paragraph and the
23 definitions of "articles," "foreign nonprofit corporation,"
24 "nonqualified foreign corporation" and "qualified foreign
25 corporation" or "qualified foreign nonprofit corporation" are
26 amended to read:

27 § 5103. Definitions.

28 (a) General definitions.--Subject to additional definitions
29 contained in subsequent provisions of this subpart that are
30 applicable to specific provisions of this subpart, the following

1 words and phrases when used in Part I (relating to preliminary
2 provisions) or in this subpart shall have the meanings given to
3 them in this section unless the context clearly indicates
4 otherwise:

5 * * *

6 "Articles." The original articles of incorporation, all
7 amendments thereof, and any other articles, statements or
8 certificates permitted or required to be filed in the Department
9 of State by sections 108 (relating to change in location or
10 status of registered office provided by agent) and 138 (relating
11 to statement of correction), Chapter 3 (relating to entity
12 transactions) or this subpart and including what have heretofore
13 been designated by law as certificates of incorporation or
14 charters. If an amendment of the articles or [articles of merger
15 or division made in the manner permitted by this subpart] a
16 statement filed under Chapter 3 restates articles in their
17 entirety [or if there are articles of consolidation, conversion
18 or domestication], thenceforth the "articles" shall not include
19 any prior documents and any certificate issued by the department
20 with respect thereto shall so state.

21 * * *

22 "Foreign nonprofit corporation." A foreign corporation not-
23 for-profit or other entity subject to Chapter 61 (relating to
24 foreign nonprofit corporations), whether or not required to
25 [qualify thereunder] register under Chapter 4 (relating to
26 foreign associations).

27 * * *

28 ["Nonqualified foreign corporation" or "nonqualified foreign
29 nonprofit corporation." A foreign corporation not-for-profit
30 that is not a qualified foreign corporation, as defined in this

1 section.]

2 * * *

3 ["Qualified foreign corporation" or "qualified foreign
4 nonprofit corporation." A foreign corporation not-for-profit
5 authorized under Chapter 61 (relating to foreign nonprofit
6 corporations) to do business in this Commonwealth.]

7 * * *

8 Section 31. Section 5106 of Title 15 is amended to read:

9 § 5106. Uniform application of subpart.

10 (a) General rule.--Except as provided in subsection (b),
11 this [subpart] title and its amendments are intended to provide
12 uniform rules for the governance and regulation of the affairs
13 of nonprofit corporations and of their officers, directors and
14 members and of members of other bodies, regardless of the date
15 or manner of incorporation or qualification, or of the issuance
16 of any evidences of membership in or shares of a nonprofit
17 corporation.

18 (b) Exceptions.--

19 (1) Unless expressly provided otherwise in any amendment
20 to this [subpart] title, the amendment shall take effect only
21 prospectively.

22 (2) Any existing corporation lawfully using a name or,
23 as a part of its name, a word that could not be used as or
24 included in the name of a corporation subsequently
25 incorporated or qualified under this [subpart] title may
26 continue to use the name or word as part of its name if the
27 use or inclusion of the word or name was lawful when first
28 adopted by the corporation in this Commonwealth.

29 (3) Subsection (a) shall not adversely affect the rights
30 specifically provided for or saved in this subpart,

1 including, without limiting the generality of the foregoing,
2 the provisions of section [5952(d) (relating to proposal and
3 adoption of plan of division)] 363 (relating to approval of
4 division).

5 (4) Nothing in this [subpart] title shall be deemed to
6 repeal or supersede any provision in section 7 of the act of
7 April 26, 1855 (P.L.328, No.347), entitled "An act relating
8 to Corporations and to Estates held for Corporate, Religious
9 and Charitable uses."

10 Section 32. Sections 5303, 5304 and 5305 of Title 15 are
11 repealed:

12 [§ 5303. Corporate name.

13 (a) General rule.--The corporate name may be in any
14 language, but must be expressed in Roman letters or characters
15 or Arabic or Roman numerals.

16 (b) Duplicate use of names.--The corporate name shall be
17 distinguishable upon the records of the Department of State
18 from:

19 (1) The name of any other domestic corporation for
20 profit or not-for-profit which is either in existence or for
21 which articles of incorporation have been filed but have not
22 yet become effective, or of any foreign corporation for
23 profit or not-for-profit which is either authorized to do
24 business in this Commonwealth or for which an application for
25 a certificate of authority has been filed but which has not
26 yet become effective, or the name of any association
27 registered at any time under 54 Pa.C.S. Ch. 5 (relating to
28 corporate and other association names), unless the other
29 association:

30 (i) has stated that it is about to change its name,

1 or to cease to do business, or is being wound up, or is a
2 foreign association about to withdraw from doing business
3 in this Commonwealth, and the statement and a written
4 consent to the adoption of the name executed by the other
5 association is filed in the Department of State;

6 (ii) has filed with the Department of Revenue a
7 certificate of out of existence, or has failed for a
8 period of three successive years to file with the
9 Department of Revenue a report or return required by law
10 and the fact of such failure has been certified by the
11 Department of Revenue to the Department of State;

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

20 (iv) has had the registration of its name under 54
21 Pa.C.S. Ch. 5 terminated and, if the termination was
22 effected by operation of 54 Pa.C.S. § 504 (relating to
23 effect of failure to make filings), the application for
24 the use of the name is accompanied by a verified
25 statement stating that at least 30 days' written notice
26 of intention to appropriate the name was given to the
27 delinquent association at its last known place of
28 business and that, after diligent search by the affiant,
29 the affiant believes the association to be out of
30 existence.

1 (2) A name the exclusive right to which is at the time
2 reserved by any other person whatsoever in the manner
3 provided by statute. A name shall be rendered unavailable for
4 corporate use by reason of the filing in the Department of
5 State of any assumed or fictitious name required by 54
6 Pa.C.S. Ch. 3 (relating to fictitious names) to be filed in
7 the department only if and to the extent expressly so
8 provided in that chapter.

9 (c) Required approvals or conditions.--

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

12 (i) A governmental agency of the Commonwealth or of
13 the United States.

14 (ii) A bank, bank and trust company, savings bank,
15 private bank or trust company, as defined in the act of
16 November 30, 1965 (P.L.847, No.356), known as the Banking
17 Code of 1965.

18 (iii) An insurance company.

19 (iv) A public utility as defined in 66 Pa.C.S. § 102
20 (relating to definitions).

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

23 (2) The corporate name shall not contain:

24 (i) The word "college," "university" or "seminary"
25 when used in such a way as to imply that it is an
26 educational institution conforming to the standards and
27 qualifications prescribed by the State Board of
28 Education, unless there is submitted a certificate from
29 the Department of Education certifying that the
30 corporation or proposed corporation is entitled to use

1 that designation.

2 (ii) Words that constitute blasphemy, profane
3 cursing or swearing or that profane the Lord's name.

4 (iii) The words "engineer" or "engineering" or
5 "surveyor" or "surveying" or any other word implying that
6 any form of the practice of engineering or surveying as
7 defined in the act of May 23, 1945 (P.L.913, No.367),
8 known as the Professional Engineers Registration Law, is
9 provided unless at least one of the incorporators of a
10 proposed corporation or the directors of the existing
11 corporation has been properly registered with the State
12 Registration Board for Professional Engineers in the
13 practice of engineering or surveying and there is
14 submitted to the department a certificate from the board
15 to that effect.

16 (iv) The words "Young Men's Christian Association"
17 or any other words implying that the corporation is
18 affiliated with the State Young Men's Christian
19 Association of Pennsylvania unless the corporation is
20 incorporated for the purpose of the improvement of the
21 spiritual, mental, social and physical condition of young
22 people, by the support and maintenance of lecture rooms,
23 libraries, reading rooms, religious and social meetings,
24 gymnasiums, and such other means and services as may
25 conduce to the accomplishment of that object, according
26 to the general rules and regulations of such State
27 association.

28 (v) The words "architect" or "architecture" or any
29 other word implying that any form of the practice of
30 architecture as defined in the act of December 14, 1982

1 (P.L.1227, No.281), known as the Architects Licensure
2 Law, is provided unless at least one of the incorporators
3 of a proposed corporation or the directors of the
4 existing corporation has been properly registered with
5 the Architects Licensure Board in the practice of
6 architecture and there is submitted to the department a
7 certificate from the board to that effect.

8 (vi) The word "cooperative" or an abbreviation
9 thereof unless the corporation is a cooperative
10 corporation.

11 (d) Other rights unaffected.--This section shall not
12 abrogate or limit the law as to unfair competition or unfair
13 practices, nor derogate from the common law, the principles of
14 equity or the provisions of Title 54 (relating to names) with
15 respect to the right to acquire and protect trade names.
16 Subsection (b) shall not apply if the applicant files in the
17 department a certified copy of a final order of a court of
18 competent jurisdiction establishing the prior right of the
19 applicant to the use of a name in this Commonwealth.

20 (e) Remedies for violation of section.--The use of a name in
21 violation of this section shall not vitiate or otherwise affect
22 the corporate existence, but any court having jurisdiction may
23 enjoin the corporation from using or continuing to use a name in
24 violation of this section upon the application of:

25 (1) the Attorney General, acting on his own motion or at
26 the instance of any administrative department, board or
27 commission of this Commonwealth; or

28 (2) any person adversely affected.

29 (f) Cross references.--See sections 135(e) (relating to
30 distinguishable names) and 5106(b) (2) (relating to limited

1 uniform application of subpart).

2 § 5304. Required name changes by senior corporations.

3 (a) Adoption of new name upon reactivation.--Where a
4 corporate name is made available on the basis that the
5 corporation or other association that formerly registered the
6 name has failed to file with the Department of Revenue a report
7 or a return required by law or where the corporation or other
8 association has filed with the Department of Revenue a
9 certificate of out of existence, the corporation or other
10 association shall cease to have by virtue of its prior
11 registration any right to the use of the name. The corporation
12 or other association, upon withdrawal of the certificate of out
13 of existence or upon the removal of its delinquency in the
14 filing of the required reports or returns, shall make inquiry
15 with the Department of State with regard to the availability of
16 its name and, if the name has been made available to another
17 domestic or foreign corporation for profit or not-for-profit or
18 other association by virtue of these conditions, shall adopt a
19 new name in accordance with law before resuming its activities.

20 (b) Enforcement of undertaking to release name.--If a
21 corporation has used a name that is not distinguishable upon the
22 records of the Department of State from the name of another
23 corporation or other association as permitted by section 5303(b)
24 (1) (relating to duplicate use of names) and the other
25 corporation or other association continues to use its name in
26 this Commonwealth and does not change its name, cease to do
27 business, be wound up, or withdraw as it proposed to do in its
28 consent or change its name as required by subsection (a), any
29 court having jurisdiction may enjoin the other corporation or
30 other association from continuing to use its name or a name that

1 is not distinguishable therefrom, upon the application of:

2 (1) the Attorney General, acting on his own motion or at
3 the instance of any administrative department, board or
4 commission of this Commonwealth; or

5 (2) upon the application of any person adversely
6 affected.

7 § 5305. Reservation of corporate name.

8 (a) General rule.--The exclusive right to the use of a
9 corporate name may be reserved by any person. The reservation
10 shall be made by delivering to the Department of State an
11 application to reserve a specified corporate name, executed by
12 the applicant. If the department finds that the name is
13 available for corporate use, it shall reserve the name for the
14 exclusive use of the applicant for a period of 120 days.

15 (b) Transfer of reservation.--The right to exclusive use of
16 a specified corporate name reserved under subsection (a) may be
17 transferred to any other person by delivering to the department
18 a notice of the transfer, executed by the person who reserved
19 the name, and specifying the name and address of the transferee.

20 (c) Cross references.--See sections 134 (relating to
21 docketing statement) and 6131 (relating to registration of
22 name).]

23 Section 33. Sections 5341, 5704(b)(1), 5757 and 5766(c) of
24 Title 15 are amended to read:

25 § 5341. Statement of revival.

26 (a) General rule.--Any nonprofit corporation whose charter
27 or articles have been forfeited by proclamation of the Governor
28 pursuant to section 1704 of the act of April 9, 1929 (P.L.343,
29 No.176), known as The Fiscal Code, or otherwise, or whose
30 corporate existence has expired by reason of any limitation

1 contained in its charter or articles and the failure to effect a
2 timely renewal or extension of its corporate existence, may, at
3 any time by [filing] delivering to the department for filing a
4 statement of revival, procure a revival of its charter or
5 articles, together with all the rights, franchises, privileges
6 and immunities and subject to all of its duties, debts and
7 liabilities that had been vested in and imposed upon the
8 corporation by its charter or articles as last in effect.

9 (b) Contents of statement.--The statement of revival shall
10 be [executed] signed in the name of the forfeited or expired
11 corporation and shall, subject to section 109 (relating to name
12 of commercial registered office provider in lieu of registered
13 address), set forth:

14 (1) The name of the corporation at the time its charter
15 or articles were forfeited or expired and the address,
16 including street and number, if any, of its last registered
17 office.

18 (2) The statute by or under which the corporation was
19 incorporated and the date of incorporation.

20 (3) The name that the corporation adopts as its new name
21 if the adoption of a new name is required by section [5304]
22 207 (relating to required name changes by senior
23 [corporations] associations).

24 (4) The address, including street and number, if any, of
25 its registered office in this Commonwealth.

26 (5) A reference to the proclamation or other action by
27 which its charter or articles were forfeited or a reference
28 to the limitation contained in its expired charter or
29 articles.

30 (6) A statement that the corporate existence of the

1 corporation shall be revived.

2 (7) A statement that the filing of the statement of
3 revival has been authorized by the corporation. Every
4 forfeited or expired corporation may act by its last
5 directors or may elect directors and officers in the manner
6 provided by this subpart for the limited purpose of effecting
7 a filing under this section.

8 (c) Filing and effect.--The statement of revival and, in the
9 case of a forfeited corporation, the clearance certificates
10 required by section 139 (relating to tax clearance of certain
11 fundamental transactions) shall be [filed in the Department of
12 State] delivered to the department for filing. Upon the filing
13 of the statement of revival, the corporation shall be revived
14 with the same effect as if its charter or articles had not been
15 forfeited or expired by limitation. The revival shall validate
16 all contracts and other transactions made and effected within
17 the scope of the articles of the corporation by its
18 representatives during the time when its charter or articles
19 were forfeited or expired to the same effect as if its charter
20 or articles had not been forfeited or expired.

21 (d) Cross [reference.--See section] references.--See
22 sections 134 (relating to docketing statement) and 135 (relating
23 to requirements to be met by filed documents).

24 § 5704. Place and notice of meetings of members.

25 * * *

26 (b) Notice.--Notice in record form of every meeting of the
27 members shall be given by, or at the direction of, the secretary
28 or other authorized person to each member of record entitled to
29 vote at the meeting at least:

30 (1) ten days prior to the day named for a meeting that

1 will consider a transaction under Chapter 3 (relating to
2 entity transactions) or a fundamental change under Chapter 59
3 (relating to fundamental changes); or

4 * * *

5 § 5757. Action by members.

6 (a) General rule.--Except as otherwise provided in this
7 [subpart] title or in a bylaw adopted by the members, whenever
8 any corporate action is to be taken by vote of the members of a
9 nonprofit corporation, it shall be authorized upon receiving the
10 affirmative vote of a majority of the votes cast by the members
11 entitled to vote thereon and, if any members are entitled to
12 vote thereon as a class, upon receiving the affirmative vote of
13 a majority of the votes cast by the members entitled to vote as
14 a class.

15 (b) Changes in required vote.--Whenever a provision of this
16 [subpart] title requires a specified number or percentage of
17 votes of members or of a class of members for the taking of any
18 action, a nonprofit corporation may prescribe in a bylaw adopted
19 by the members that a higher number or percentage of votes shall
20 be required for the action. The number or percentage of members
21 necessary to call a special meeting of members or to petition
22 for the proposal of an amendment of articles under this subpart
23 may not be increased under this subsection. See sections 5504(d)
24 (relating to adoption, amendment and contents of bylaws) and
25 5914(d) (relating to adoption of amendments).

26 (c) Expenses.--Unless otherwise restricted in the articles,
27 the corporation shall pay the reasonable expenses of
28 solicitation of votes, proxies or consents of members by or on
29 behalf of the board of directors or its nominees for election to
30 the board, including solicitation by professional proxy

1 solicitors and otherwise, and may pay the reasonable expenses of
2 a solicitation by or on behalf of other persons.

3 (d) Cross reference.--See section 322 (relating to approval
4 by nonprofit corporation).

5 § 5766. Consent of members in lieu of meeting.

6 * * *

7 (c) [Effectiveness] Notice of action by partial consent.--
8 [An action taken pursuant to subsection (b) shall not become
9 effective until after at least ten days' notice of the action
10 has been given to each member entitled to vote thereon who has
11 not consented thereto.] Unless the bylaws require notice before
12 an action pursuant to subsection (b) takes effect, prompt notice
13 that an action has been taken shall be given to each member
14 entitled to vote on the action that has not consented.

15 Section 34. The heading of Chapter 59 of Title 15 is amended
16 to read:

17 CHAPTER 59

18 [FUNDAMENTAL CHANGES] AMENDMENTS, SALE

19 OF ASSETS AND DISSOLUTION

20 Section 34.1. Sections 5901, 5902(a) and 5905 of Title 15
21 are amended to read:

22 [§ 5901. Omission of certain provisions from filed plans.

23 (a) General rule.--A plan as filed in the Department of
24 State under any provision of this chapter may omit all
25 provisions of the plan except provisions, if any:

26 (1) that are intended to amend or constitute the
27 operative provisions of the articles of a corporation as in
28 effect subsequent to the effective date of the plan; or

29 (2) that allocate or specify the respective assets and
30 liabilities of the resulting corporations, in the case of a

1 plan of division.

2 (b) Availability of full plan.--If any of the provisions of
3 a plan are omitted from the plan as filed in the department, the
4 articles of amendment, merger, consolidation, division or
5 conversion shall state that the full text of the plan is on file
6 at the principal place of business of the surviving or new or a
7 resulting corporation and shall state the address thereof. A
8 corporation that takes advantage of this section shall furnish a
9 copy of the full text of the plan, on request and without cost,
10 to any member of any corporation that was a party to the plan
11 and on request and at cost to any other person.]

12 § 5902. Statement of termination.

13 (a) General rule.--If articles of amendment [or articles of
14 merger, consolidation, division or conversion of a nonprofit
15 corporation or to which it is a party] have been filed in the
16 [Department of State] department prior to the termination of the
17 amendment [or plan] pursuant to provisions therefor set forth in
18 the resolution or petition relating to the amendment [or in the
19 plan], the termination shall not be effective unless the
20 corporation shall, prior to the time the amendment or plan is to
21 become effective, file in the department a statement of
22 termination. The statement of termination shall be executed by
23 the corporation that filed the amendment [or by each corporation
24 that is a party to the plan, unless the plan permits termination
25 by less than all of the corporations, in which case the
26 statement shall be executed on behalf of the corporation or
27 corporations exercising the right to terminate,] and shall set
28 forth:

29 (1) A copy of the articles of amendment [or articles of
30 merger, consolidation, division or conversion relating to the

1 amendment or plan that is terminated].

2 (2) A statement that the amendment [or plan] has been
3 terminated in accordance with the provisions therefor set
4 forth therein.

5 * * *

6 § 5905. Proposal of fundamental transactions.

7 Where any provision of this chapter requires that an
8 amendment of the articles[, a plan] or the dissolution of a
9 nonprofit corporation be proposed or approved by action of the
10 board of directors, that requirement shall be construed to
11 authorize and be satisfied by the written agreement or consent
12 of all of the members of the corporation entitled to vote
13 thereon.

14 Section 35. The heading of Subchapter C of Chapter 59 of
15 Title 15 is amended to read:

16 SUBCHAPTER C

17 [MERGER, CONSOLIDATION AND] SALE OF ASSETS

18 Section 36. Sections 5921, 5922, 5923, 5924, 5925, 5926,
19 5927, 5928 and 5929 of Title 15 are repealed:

20 [§ 5921. Merger and consolidation authorized.

21 (a) Domestic surviving or new corporation.--Any two or more
22 domestic nonprofit corporations, or any two or more foreign
23 nonprofit corporations, or any one or more domestic nonprofit
24 corporations and any one or more foreign nonprofit corporations,
25 may, in the manner provided in this subchapter, be merged into
26 one of the domestic nonprofit corporations, designated in this
27 subchapter as the surviving corporation, or consolidated into a
28 new corporation to be formed under this subpart, if the foreign
29 corporations are authorized by the laws of the jurisdiction
30 under which they are incorporated to effect a merger or

1 consolidation with a corporation of another jurisdiction.

2 (b) Foreign surviving or new corporation.--Any one or more
3 domestic nonprofit corporations, and any one or more foreign
4 nonprofit corporations, may, in the manner provided in this
5 subchapter, be merged into one of the foreign nonprofit
6 corporations, designated in this subchapter as the surviving
7 corporation, or consolidated into a new corporation to be
8 incorporated under the laws of the jurisdiction under which one
9 of the foreign nonprofit corporations is incorporated, if the
10 laws of that jurisdiction authorize a merger with or
11 consolidation into a corporation of another jurisdiction.

12 § 5922. Plan of merger or consolidation.

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

15 (1) The terms and conditions of the merger or
16 consolidation.

17 (2) If the surviving or new corporation is or is to be a
18 domestic nonprofit corporation:

19 (i) any changes desired to be made in the articles,
20 which may include a restatement of the articles in the
21 case of a merger; or

22 (ii) in the case of a consolidation, all of the
23 statements required by this subpart to be set forth in
24 restated articles.

25 (3) Such other provisions as are deemed desirable.

26 (b) Post-adoption amendment.--A plan of merger or
27 consolidation may contain a provision that the boards of
28 directors or other bodies of the constituent corporations may
29 amend the plan at any time prior to its effective date, except
30 that an amendment made subsequent to the adoption of the plan by

1 the members of any constituent corporation shall not change:

2 (1) The term of memberships or the amount or kind of
3 securities, obligations, cash, property or rights to be
4 received in exchange for or on conversion of all or any of
5 the memberships in the constituent corporation.

6 (2) Any term of the articles of the surviving or new
7 corporation to be effected by the merger or consolidation.

8 (3) Any of the terms and conditions of the plan if the
9 change would adversely affect the members of the constituent
10 corporation.

11 (c) Proposal.--Every merger or consolidation shall be
12 proposed in the case of each domestic nonprofit corporation:

13 (1) by the adoption by the board of directors or other
14 body of a resolution approving the plan of merger or
15 consolidation;

16 (2) unless otherwise provided in the articles, by
17 petition of members entitled to cast at least 10% of the
18 votes that all members are entitled to cast thereon, setting
19 forth the proposed plan of merger or consolidation, which
20 petition shall be directed to the board of directors and
21 filed with the secretary of the corporation; or

22 (3) by such other method as may be provided in the
23 bylaws.

24 (d) Submission to members.--Except where the corporation has
25 no members entitled to vote thereon, the board of directors or
26 other body shall direct that the plan be submitted to a vote of
27 the members entitled to vote thereon at a regular or special
28 meeting of the members.

29 (e) Party to plan or transaction.--A corporation,
30 partnership, business trust or other association that approves a

1 plan in its capacity as a member or creditor of a merging or
2 consolidating corporation or that furnishes all or a part of the
3 consideration contemplated by a plan does not thereby become a
4 party to the plan or the merger or consolidation for the
5 purposes of this subchapter.

6 (f) Reference to outside facts.--Any of the terms of a plan
7 of merger or consolidation may be made dependent upon facts
8 ascertainable outside of the plan if the manner in which the
9 facts will operate upon the terms of the plan is set forth in
10 the plan. Such facts may include, without limitation, actions or
11 events within the control of or determinations made by a party
12 to the plan or a representative of a party to the plan.

13 § 5923. Notice of meeting of members.

14 (a) General rule.--Notice in record form of the meeting of
15 members that will act on the proposed plan shall be given to
16 each member of record, whether or not entitled to vote thereon,
17 of each domestic nonprofit corporation that is a party to the
18 merger or consolidation. The notice shall include or be
19 accompanied by a copy of the proposed plan or a summary thereof.
20 The notice shall provide that a copy of the bylaws of the
21 surviving or new corporation will be furnished to any member on
22 request and without cost.

23 (b) Cross reference.--See Subchapter A of Chapter 57
24 (relating to notice and meetings generally).

25 § 5924. Adoption of plan.

26 (a) General rule.--The plan of merger or consolidation shall
27 be adopted upon receiving the affirmative vote of the members
28 present entitled to cast at least a majority of the votes that
29 all members present are entitled to cast thereon of each of the
30 domestic nonprofit corporations that is a party to the merger or

1 consolidation and, if any class of members is entitled to vote
2 thereon as a class, the affirmative vote of the members present
3 of such class entitled to cast at least a majority of the votes
4 that all members present of such class are entitled to cast
5 thereon.

6 (b) Adoption in absence of voting members.--If a merging or
7 consolidating corporation has no members entitled to vote
8 thereon, or no members entitled to vote thereon other than
9 persons who also constitute the board of directors or other
10 body, a plan of merger or consolidation shall be deemed adopted
11 by the corporation when it has been adopted by the board of
12 directors or other body pursuant to section 5922 (relating to
13 plan of merger or consolidation).

14 (c) Termination of plan.--Prior to the time when a merger or
15 consolidation becomes effective, the merger or consolidation may
16 be terminated pursuant to provisions for termination, if any,
17 set forth in the plan. If articles of merger or consolidation
18 have been filed in the department prior to the termination, a
19 statement under section 5902 (relating to statement of
20 termination) shall be filed in the department.

21 § 5925. Authorization by foreign corporations.

22 The plan of merger or consolidation shall be authorized,
23 adopted or approved by each foreign nonprofit corporation that
24 desires to merge or consolidate in accordance with the laws of
25 the jurisdiction in which it is incorporated and, in the case of
26 a foreign domiciliary corporation, in accordance with the
27 provisions of this subpart to the extent provided by section
28 6145 (relating to applicability of certain safeguards to foreign
29 domiciliary corporations).

30 § 5926. Articles of merger or consolidation.

1 Upon the adoption of the plan of merger or consolidation by
2 the corporations desiring to merge or consolidate, as provided
3 in this subchapter, articles of merger or articles of
4 consolidation, as the case may be, shall be executed by each
5 corporation and shall, subject to section 109 (relating to name
6 of commercial registered office provider in lieu of registered
7 address), set forth:

8 (1) The name and the location of the registered office,
9 including street and number, if any, of the domestic
10 surviving or new corporation or, in the case of a foreign
11 surviving or new corporation, the name of the corporation and
12 its jurisdiction of incorporation, together with either:

13 (i) if a qualified foreign nonprofit corporation,
14 the address, including street and number, if any, of its
15 registered office in this Commonwealth; or

16 (ii) if a nonqualified foreign nonprofit
17 corporation, the address, including street and number, if
18 any, of its principal office under the laws of the
19 jurisdiction in which it is incorporated.

20 (2) The name and address, including street and number,
21 if any, of the registered office of each other domestic
22 nonprofit corporation and qualified foreign nonprofit
23 corporation that is a party to the merger or consolidation.

24 (3) If the plan is to be effective on a specified date,
25 the hour, if any, and the month, day and year of the
26 effective date.

27 (4) The manner in which the plan was adopted by each
28 domestic corporation and, if one or more foreign corporations
29 are parties to the merger or consolidation, the fact that the
30 plan was authorized, adopted or approved, as the case may be,

1 by each of the foreign corporations in accordance with the
2 laws of the jurisdiction in which it is incorporated.

3 (5) Except as provided in section 5901 (relating to
4 omission of certain provisions from filed plans), the plan of
5 merger or consolidation.

6 § 5927. Filing of articles of merger or consolidation.

7 (a) General rule.--The articles of merger or articles of
8 consolidation, as the case may be, and the certificates or
9 statement, if any, required by section 139 (relating to tax
10 clearance of certain fundamental transactions) shall be filed in
11 the Department of State.

12 (b) Cross reference.--See section 134 (relating to docketing
13 statement).

14 § 5928. Effective date of merger or consolidation.

15 Upon the filing of the articles of merger or the articles of
16 consolidation in the department or upon the effective date
17 specified in the plan of merger or consolidation, whichever is
18 later, the merger or consolidation shall be effective. The
19 merger or consolidation of one or more domestic nonprofit
20 corporations into a foreign nonprofit corporation shall be
21 effective according to the provisions of law of the jurisdiction
22 in which the foreign corporation is incorporated, but not until
23 articles of merger or articles of consolidation have been
24 adopted and filed, as provided in this subchapter.

25 § 5929. Effect of merger or consolidation.

26 (a) Single surviving or new corporation.--Upon the merger or
27 consolidation becoming effective, the several corporations
28 parties to the merger or consolidation shall be a single
29 corporation which, in the case of a merger, shall be the
30 corporation designated in the plan of merger as the surviving

1 corporation and, in the case of a consolidation, shall be the
2 new corporation provided for in the plan of consolidation. The
3 separate existence of all corporations parties to the merger or
4 consolidation shall cease, except that of the surviving
5 corporation, in the case of a merger. The surviving or new
6 corporation, as the case may be, if it is a domestic nonprofit
7 corporation, shall not thereby acquire authority to engage in
8 any business or exercise any right that a corporation may not be
9 incorporated under this subpart to engage in or exercise.

10 (b) Property rights.--Except as otherwise provided by order,
11 if any, obtained pursuant to section 5547(b) (relating to
12 nondiversion of certain property), all the property, real,
13 personal and mixed, and franchises of each of the corporations
14 parties to the merger or consolidation, and all debts due on
15 whatever account to any of them, including subscriptions for
16 membership and other choses in action belonging to any of them,
17 shall be deemed to be vested in and shall belong to the
18 surviving or new corporation, as the case may be, without
19 further action, and the title to any real estate, or any
20 interest therein, vested in any of the corporations shall not
21 revert or be in any way impaired by reason of the merger or
22 consolidation. The surviving or new corporation shall
23 thenceforth be responsible for all the liabilities of each of
24 the corporations so merged or consolidated. Liens upon the
25 property of the merging or consolidating corporations shall not
26 be impaired by the merger or consolidation, and any claim
27 existing or action or proceeding pending by or against any of
28 the corporations may be prosecuted to judgment as if the merger
29 or consolidation had not taken place, or the surviving or new
30 corporation may be proceeded against or substituted in its

1 place. Any devise, gift or grant contained in any will or other
2 instrument, in trust or otherwise, made before or after such
3 merger or consolidation, to or for any of the constituent
4 corporations, shall inure to the surviving or new corporation,
5 as the case may be, subject to compliance with the requirements
6 of section 5550 (relating to devises, bequests and gifts after
7 certain fundamental changes).

8 (c) Taxes.--Any taxes, interest, penalties and public
9 accounts of the Commonwealth claimed against any of the merging
10 or consolidating corporations that are settled, assessed or
11 determined prior to or after the merger or consolidation shall
12 be the liability of the surviving or new corporation and,
13 together with interest thereon, shall be a lien against the
14 franchises and property, both real and personal, of the
15 surviving or new corporation.

16 (d) Articles of incorporation.--In the case of a merger, the
17 articles of incorporation of the surviving domestic nonprofit
18 corporation, if any, shall be deemed to be amended to the
19 extent, if any, that changes in its articles are stated in the
20 plan of merger. In the case of a consolidation into a domestic
21 nonprofit corporation, the statements that are set forth in the
22 plan of consolidation, or articles of incorporation set forth
23 therein, shall be deemed to be the articles of incorporation of
24 the new corporation.]

25 Section 37. Section 5930(a) of Title 15 is amended to read:
26 § 5930. Voluntary transfer of corporate assets.

27 (a) General rule.--A sale, lease, exchange or other
28 disposition of all, or substantially all, of the property and
29 assets, with or without goodwill, of a nonprofit corporation, if
30 not made pursuant to Subchapter [D] F of Chapter [19] 3

1 (relating to division), may be made only pursuant to a plan of
2 asset transfer. The property or assets of a direct or indirect
3 subsidiary corporation that is controlled by a parent
4 corporation shall also be deemed the property or assets of the
5 parent corporation for purposes of this subsection. The plan of
6 asset transfer shall set forth the terms and consideration of
7 the sale, lease, exchange or other disposition or may authorize
8 the board of directors or other body to fix any or all of the
9 terms and conditions, including the consideration to be received
10 by the corporation. Any of the terms of the plan may be made
11 dependent upon facts ascertainable outside of the plan if the
12 manner in which the facts will operate upon the terms of the
13 plan is set forth in the plan. The plan of asset transfer shall
14 be proposed and adopted, and may be amended after its adoption
15 and terminated, by a nonprofit corporation in the manner
16 provided in this subchapter for the proposal, adoption,
17 amendment and termination of a plan of merger. A copy or summary
18 of the plan shall be included in, or enclosed with, the notice
19 of the meeting at which members will act on the plan. In order
20 to make effective any plan so adopted, it shall not be necessary
21 to file any articles or other document in the department, but
22 the corporation shall comply with the requirements of section
23 5547(b) (relating to nondiversion of certain property).

24 * * *

25 Section 38. The heading of Subchapter D of Chapter 59 of
26 Title 15 is amended to read:

27 SUBCHAPTER D
28 [DIVISION] (RESERVED)

29 Section 39. Sections 5951, 5952, 5953, 5954, 5955, 5956,
30 5957 and Subchapter E of Chapter 59 and sections 6121, 6122 and

1 6123 of Title 15 are repealed:

2 [§ 5951. Division authorized.

3 (a) Division of domestic corporation.--Any domestic
4 nonprofit corporation may, in the manner provided in this
5 subchapter, be divided into two or more domestic nonprofit
6 corporations incorporated or to be incorporated under this
7 article, or into one or more domestic nonprofit corporations and
8 one or more foreign nonprofit corporations to be incorporated
9 under the laws of another jurisdiction or jurisdictions, or into
10 two or more foreign nonprofit corporations, if the laws of the
11 other jurisdictions authorize the division.

12 (b) Division of foreign corporation.--Any foreign nonprofit
13 corporation may, in the manner provided in this subchapter, be
14 divided into one or more domestic nonprofit corporations to be
15 incorporated under this subpart and one or more foreign
16 nonprofit corporations incorporated or to be incorporated under
17 the laws of another jurisdiction or jurisdictions, or into two
18 or more domestic nonprofit corporations, if the foreign
19 nonprofit corporation is authorized under the laws of the
20 jurisdiction under which it is incorporated to effect a
21 division.

22 (c) Surviving and new corporations.--The corporation
23 effecting a division, if it survives the division, is designated
24 in this subchapter as the surviving corporation. All
25 corporations originally incorporated by a division are
26 designated in this subchapter as new corporations. The surviving
27 corporation, if any, and the new corporation or corporations are
28 collectively designated in this subchapter as the resulting
29 corporations.

30 § 5952. Proposal and adoption of plan of division.

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

3 (1) The terms and conditions of the division, including
4 the manner and basis of:

5 (i) The reclassification of the membership interests
6 or shares of the surviving corporation, if there be one.

7 (ii) The disposition of the membership interests or
8 shares or obligations, if any, of the new corporation or
9 corporations resulting from the division.

10 (2) A statement that the dividing nonprofit corporation
11 will, or will not, survive the division.

12 (3) Any changes desired to be made in the articles of
13 the surviving corporation, if there be one, including a
14 restatement of the articles.

15 (4) The articles of incorporation required by subsection
16 (b).

17 (5) Such other provisions as are deemed desirable.

18 (b) Articles of new corporations.--There shall be included
19 in or annexed to the plan of division:

20 (1) Articles of incorporation, which shall contain all
21 of the statements required by this subpart to be set forth in
22 restated articles, for each of the new domestic nonprofit
23 corporations, if any, resulting from the division.

24 (2) Articles of incorporation, certificates of
25 incorporation or other charter documents for each of the new
26 foreign nonprofit corporations, if any, resulting from the
27 division.

28 (c) Proposal and adoption.--Except as otherwise provided in
29 section 5953 (relating to division without member approval), the
30 plan of division shall be proposed and adopted, and may be

1 amended after its adoption and terminated, by a domestic
2 nonprofit corporation in the manner provided for the proposal,
3 adoption, amendment and termination of a plan of merger in
4 Subchapter C (relating to merger, consolidation and sale of
5 assets) or, if the dividing corporation is a foreign nonprofit
6 corporation, in accordance with the laws of the jurisdiction in
7 which it is incorporated and, in the case of a foreign
8 domiciliary corporation, the provisions of this subpart to the
9 extent provided by section 6145 (relating to applicability of
10 certain safeguards to foreign corporations). There shall be
11 included in or enclosed with the notice of the meeting of
12 members that will act on the plan a copy or summary of the plan.

13 (d) Special requirements.--If any provision of the bylaws of
14 a dividing domestic nonprofit corporation adopted before January
15 1, 1972 shall require for the adoption of a plan of merger or
16 consolidation or a plan involving the sale, lease or exchange of
17 all or substantially all of the property and assets of the
18 corporation a specific number or percentage of votes of
19 directors, members, or members of an other body or other special
20 procedures, the plan of division shall not be adopted without
21 such number or percentage of votes or compliance with such other
22 special procedures.

23 (e) Financial status of resulting corporations.--Unless the
24 plan of division provides that the dividing corporation shall
25 survive the division and that all membership interests or shares
26 or obligations, if any, of all new corporations resulting from
27 the plan shall be owned solely by the surviving corporation, no
28 plan of division may be made effective at a time when the
29 dividing corporation is insolvent or when the division would
30 render any of the resulting corporations insolvent.

1 (f) Rights of holders of indebtedness.--If any debt
2 securities, notes or similar evidences of indebtedness for money
3 borrowed, whether secured or unsecured, indentures or other
4 contracts were issued, incurred or executed by the dividing
5 corporation before January 1, 1972, and have not been amended
6 subsequent to that date, the liability of the dividing
7 corporation thereunder shall not be affected by the division nor
8 shall the rights of the obligees thereunder be impaired by the
9 division, and each of the resulting corporations may be
10 proceeded against or substituted in place of the dividing
11 corporation as joint and several obligors on such liability,
12 regardless of any provision of the plan of division apportioning
13 the liabilities of the dividing corporation.

14 (g) Reference to outside facts.--Any of the terms of a plan
15 of division may be made dependent upon facts ascertainable
16 outside of the plan if the manner in which the facts will
17 operate upon the terms of the plan is set forth in the plan.
18 Such facts may include, without limitation, actions or events
19 within the control of or determinations made by the dividing
20 corporation or a representative of the dividing corporation.
21 § 5953. Division without member approval.

22 Unless otherwise required by its bylaws or by section 5952
23 (relating to proposal and adoption of plan of division), a plan
24 of division that does not alter the state of incorporation of a
25 nonprofit corporation nor amend in any respect the provisions of
26 its articles, except amendments that under section 5914(b)
27 (relating to adoption in absence of voting members) may be made
28 without member action, shall not require the approval of the
29 members of the corporation if the transfers of assets effected
30 by the division, if effected by means of a sale, lease, exchange

1 or other disposition, would not require the approval of members
2 under section 5930 (relating to voluntary transfer of corporate
3 assets).

4 § 5954. Articles of division.

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

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

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

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

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

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

27 (4) The name and the address, including street and
28 number, if any, of the registered office of each new domestic
29 nonprofit corporation or qualified foreign nonprofit
30 corporation resulting from the division.

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

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

6 (7) Except as provided in section 5901 (relating to
7 omission of certain provisions from filed plans), the plan of
8 division.

9 § 5955. Filing of articles of division.

10 (a) General rule.--The articles of division and the
11 certificates or statement, if any, required by section 139
12 (relating to tax clearance of certain fundamental transactions)
13 shall be filed in the Department of State.

14 (b) Cross reference.--See section 134 (relating to docketing
15 statement).

16 § 5956. Effective date of division.

17 Upon the filing of articles of division in the department or
18 upon the effective date specified in the plan of division,
19 whichever is later, the division shall become effective. The
20 division of a domestic nonprofit corporation into one or more
21 foreign nonprofit corporations or the division of a foreign
22 nonprofit corporation shall be effective according to the laws
23 of the jurisdictions where the foreign corporations are or are
24 to be incorporated and, in the case of a foreign domiciliary
25 corporation, the provisions of this subpart to the extent
26 provided by section 6145 (relating to applicability of certain
27 safeguards to foreign domiciliary corporations), but not until
28 articles of division have been adopted and filed as provided in
29 this subchapter.

30 § 5957. Effect of division.

1 (a) Multiple resulting corporations.--Upon the division
2 becoming effective, the dividing corporation shall be subdivided
3 into the distinct and independent resulting corporations named
4 in the plan of division and, if the dividing corporation is not
5 to survive the division, the existence of the dividing
6 corporation shall cease. The resulting corporations, if they are
7 domestic nonprofit corporations, shall not thereby acquire
8 authority to engage in any business or exercise any right that a
9 corporation may not be incorporated under this subpart to engage
10 in or exercise. Any resulting foreign nonprofit corporation that
11 is stated in the articles of division to be a qualified foreign
12 nonprofit corporation shall be a qualified foreign nonprofit
13 corporation under Article C (relating to foreign nonprofit
14 corporations), and the articles of division shall be deemed to
15 be the application for a certificate of authority and the
16 certificate of authority issued thereon of the corporation.

17 (b) Property rights; allocations of assets and
18 liabilities.--

19 (1) Except as otherwise provided by order, if any,
20 obtained pursuant to section 5547(b) (relating to
21 nondiversion of certain property):

22 (i) All the property, real, personal and mixed, and
23 franchises of the dividing corporation, and all debts due
24 on whatever account to it, including subscriptions for
25 membership and other choses in action belonging to it,
26 shall, to the extent allocations of assets are
27 contemplated by the plan of division, be deemed without
28 further action to be allocated to and vested in the
29 resulting corporations on such a manner and basis and
30 with such effect as is specified in the plan, or per

1 capita among the resulting corporations, as tenants in
2 common, if no specification is made in the plan, and the
3 title to any real estate, or interest therein, vested in
4 any of the corporations shall not revert or be in any way
5 impaired by reason of the division.

6 (ii) Upon the division becoming effective, the
7 resulting corporations shall each thenceforth be
8 responsible as separate and distinct corporations only
9 for such liabilities as each corporation may undertake or
10 incur in its own name, but shall be liable for the
11 liabilities of the dividing corporation in the manner and
12 on the basis provided in subparagraphs (iv) and (v).

13 (iii) Liens upon the property of the dividing
14 corporation shall not be impaired by the division.

15 (iv) Except as provided in section 5952(f) (relating
16 to proposal and adoption of plan of division), to the
17 extent allocations of liabilities are contemplated by the
18 plan of division, the liabilities of the dividing
19 corporation shall be deemed without further action to be
20 allocated to and become the liabilities of the resulting
21 corporations on such a manner and basis and with such
22 effect as is specified in the plan; and one or more, but
23 less than all, of the resulting corporations shall be
24 free of the liabilities of the dividing corporation to
25 the extent, if any, specified in the plan, if in either
26 case:

27 (A) no fraud on members without voting rights or
28 violation of law shall be effected thereby; and

29 (B) the plan does not constitute a fraudulent
30 transfer under 12 Pa.C.S. Ch. 51 (relating to

1 fraudulent transfers).

2 (v) If the conditions in subparagraph (iv) for
3 freeing one or more of the resulting corporations from
4 the liabilities of the dividing corporation or for
5 allocating some or all of the liabilities of the dividing
6 corporation are not satisfied, the liabilities of the
7 dividing corporation as to which those conditions are not
8 satisfied shall not be affected by the division nor shall
9 the rights of creditors thereunder be impaired by the
10 division and any claim existing or action or proceeding
11 pending by or against the corporation with respect to
12 those liabilities may be prosecuted to judgment as if the
13 division had not taken place, or the resulting
14 corporations may be proceeded against or substituted in
15 place of the dividing corporation as joint and several
16 obligors on those liabilities, regardless of any
17 provision of the plan of division apportioning the
18 liabilities of the dividing corporation.

19 (2) It shall not be necessary for a plan of division to
20 list each individual asset or liability of the dividing
21 corporation to be allocated to a new corporation so long as
22 those assets and liabilities are described in a reasonable
23 manner.

24 (3) Each new corporation shall hold any assets and
25 liabilities allocated to it as the successor to the dividing
26 corporation, and those assets and liabilities shall not be
27 deemed to have been assigned to the new corporation in any
28 manner, whether directly or indirectly or by operation of
29 law.

30 (c) Taxes.--Any taxes, interest, penalties and public

1 accounts of the Commonwealth claimed against the dividing
2 corporation that are settled, assessed or determined prior to or
3 after the division shall be the liability of any of the
4 resulting corporations and, together with interest thereon,
5 shall be a lien against the franchises and property, both real
6 and personal, of all the corporations. Upon the application of
7 the dividing corporation, the Department of Revenue, with the
8 concurrence of the Office of Employment Security of the
9 Department of Labor and Industry, shall release one or more, but
10 less than all, of the resulting corporations from liability and
11 liens for all taxes, interest, penalties and public accounts of
12 the dividing corporation due the Commonwealth for periods prior
13 to the effective date of the division if those departments are
14 satisfied that the public revenues will be adequately secured.

15 (d) Articles of surviving corporation.--The articles of
16 incorporation of the surviving corporation, if there be one,
17 shall be deemed to be amended to the extent, if any, that
18 changes in its articles are stated in the plan of division.

19 (e) Articles of new corporations.--The statements that are
20 set forth in the plan of division with respect to each new
21 domestic nonprofit corporation and that are required or
22 permitted to be set forth in restated articles of incorporation
23 of corporations incorporated under this subpart, or the articles
24 of incorporation of each new corporation set forth therein,
25 shall be deemed to be the articles of incorporation of each new
26 corporation.

27 (f) Directors and officers.--Unless otherwise provided in
28 the plan, the directors and officers of the dividing corporation
29 shall be the initial directors and officers of each of the
30 resulting corporations.

1 (g) Disposition of memberships.--Unless otherwise provided
2 in the plan, the memberships and other securities or
3 obligations, if any, of each new corporation resulting from the
4 division shall be distributable to:

5 (1) the surviving corporation if the dividing
6 corporation survives the division; or

7 (2) the members of the dividing corporation pro rata in
8 any other case.

9 (h) Conflict of laws.--It is the intent of the General
10 Assembly that:

11 (1) The effect of a division of a domestic nonprofit
12 corporation shall be governed solely by the laws of this
13 Commonwealth and any other jurisdiction under the laws of
14 which any of the resulting corporations is incorporated.

15 (2) The effect of a division on the assets and
16 liabilities of the dividing corporation shall be governed
17 solely by the laws of this Commonwealth and any other
18 jurisdiction under the laws of which any of the resulting
19 corporations is incorporated.

20 (3) The validity of any allocations of assets or
21 liabilities by a plan of division of a domestic nonprofit
22 corporation, regardless of whether any of the new
23 corporations is a foreign nonprofit corporation, shall be
24 governed solely by the laws of this Commonwealth.

25 (4) In addition to the express provisions of this
26 subsection, this subchapter shall otherwise generally be
27 granted the protection of full faith and credit under the
28 Constitution of the United States.

29 SUBCHAPTER E

30 CONVERSION

1 Sec.

2 5961. Conversion authorized.

3 5962. Proposal and adoption of plan of conversion.

4 5963. Articles of conversion.

5 5964. Filing of articles of conversion.

6 5965. Effective date of conversion.

7 5966. Effect of conversion.

8 § 5961. Conversion authorized.

9 (a) General rule.--Any nonprofit corporation may, in the
10 manner provided in this subchapter, be converted into a business
11 corporation, hereinafter designated as the resulting
12 corporation.

13 (b) Exceptions.--

14 (1) This subchapter shall not authorize any conversion
15 involving:

16 (i) A cooperative corporation.

17 (ii) Beneficial, benevolent, fraternal or fraternal
18 benefit societies having a lodge system and a
19 representative form of government, or transacting any
20 type of insurance whatsoever.

21 (iii) Any corporation which by the laws of this
22 Commonwealth is subject to the supervision of the
23 Department of Banking, the Insurance Department or the
24 Pennsylvania Public Utility Commission.

25 (2) Paragraph (1) of this subsection shall not be
26 construed as repealing any statute which provides a procedure
27 for the conversion of a nonprofit corporation into an
28 insurance corporation.

29 § 5962. Proposal and adoption of plan of conversion.

30 (a) Preparation of plan.--A plan of conversion shall be

1 prepared, setting forth:

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

3 (2) The mode of carrying the conversion into effect.

4 (3) A restatement of the articles of the resulting
5 corporation, which articles shall comply with the
6 requirements of Subpart B of Part II (relating to business
7 corporations).

8 (4) Such other details and provisions as are deemed
9 desirable.

10 (b) Proposal and adoption.--The plan of conversion shall be
11 proposed and adopted, and may be terminated, in the manner
12 provided for the proposal, adoption and termination of a plan of
13 merger in Subchapter C (relating to merger, consolidation and
14 sale of assets).

15 § 5963. Articles of conversion.

16 Upon the adoption of a plan of conversion by the nonprofit
17 corporation desiring to convert, as provided in this subchapter,
18 articles of conversion shall be executed by the corporation and
19 shall set forth:

20 (1) The name of the corporation and, subject to section
21 109 (relating to name of commercial registered office
22 provider in lieu of registered address), the address,
23 including street and number, if any, of its registered
24 office.

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

27 (3) If the plan is to be effective on a specified date,
28 the hour, if any, and the month, day and year of the
29 effective date.

30 (4) The manner in which the plan was adopted by the

1 corporation.

2 (5) Except as provided in section 5901 (relating to
3 omission of certain provisions from filed plans), the plan of
4 conversion.

5 § 5964. Filing of articles of conversion.

6 (a) General rule.--The articles of conversion shall be filed
7 in the Department of State.

8 (b) Cross reference.--See section 134 (relating to docketing
9 statement).

10 § 5965. Effective date of conversion.

11 Upon the filing of articles of conversion in the Department
12 of State, or upon the effective date specified in the plan of
13 conversion, whichever is later, the conversion shall become
14 effective.

15 § 5966. Effect of conversion.

16 Upon the conversion becoming effective, the corporation shall
17 be deemed to be a business corporation for all purposes, shall
18 cease to be a nonprofit corporation, and may thereafter operate
19 for a purpose or purposes resulting in pecuniary profit,
20 incidental or otherwise, to its members or shareholders. The
21 corporation shall issue share certificates to each shareholder
22 entitled thereto. The corporation shall remain liable for all
23 existing obligations, public and private, taxes due the
24 Commonwealth or any other taxing authority for periods prior to
25 the effective date of the conversion, and, as such business
26 corporation, it shall continue to be entitled to all assets
27 theretofore pertaining to it as a nonprofit corporation except
28 as otherwise provided by order, if any, obtained pursuant to
29 section 5547(b) (relating to nondiversion of certain property).

30 § 5980. Dissolution by domestication.

1 Whenever a domestic nonprofit corporation has domesticated
2 itself under the laws of another jurisdiction by action similar
3 to that provided under section 6161 (relating to domestication)
4 and has authorized that action by the vote required by this
5 subchapter for the approval of a proposal that the corporation
6 dissolve voluntarily, the corporation may surrender its charter
7 under the laws of this Commonwealth by filing in the department
8 articles of dissolution under this subchapter containing the
9 statements specified under section 5977(b) (1) through (4)
10 (relating to articles of dissolution). If the corporation as
11 domesticated in the other jurisdiction qualifies to do business
12 in this Commonwealth either prior to or simultaneously with the
13 filing of the articles of dissolution under this section, the
14 corporation shall not be required to file with the articles of
15 dissolution the tax clearance certificates that would otherwise
16 be required under section 139 (relating to tax clearance of
17 certain fundamental transactions).

18 § 6121. Admission of foreign corporations.

19 (a) General rule.--A foreign nonprofit corporation, before
20 doing business in this Commonwealth, shall procure a certificate
21 of authority to do so from the Department of State, in the
22 manner provided in this subchapter. A foreign nonprofit
23 corporation shall not be denied a certificate of authority by
24 reason of the fact that the laws of the jurisdiction governing
25 its incorporation and internal affairs differ from the laws of
26 this Commonwealth.

27 (b) Qualification under former statute.--If a foreign
28 corporation was on March 19, 1966, admitted to do business in
29 this Commonwealth by the filing of a power of attorney and
30 statement under the act of June 8, 1911 (P.L.710, No.283), such

1 power of attorney and statement shall be deemed an approved
2 application for a certificate of authority issued under this
3 subchapter and the corporation shall be deemed a holder of the
4 certificate. The corporation shall include in its initial
5 application, if any, for an amended certificate of authority
6 under this subchapter the information required by this
7 subchapter to be set forth in an application for a certificate
8 of authority. A certificate of authority issued under the former
9 provisions of the Nonprofit Corporation Law of 1933 or former 15
10 Pa.C.S. Pt. III Art. B, known as the Nonprofit Corporation Law
11 of 1972, as added by the act of November 15, 1972 (P.L.1063,
12 No.271), shall be deemed to be issued under this subchapter and
13 the certificate of authority shall be deemed not to contain any
14 reference to the kind of business that the corporation proposes
15 to do in this Commonwealth.

16 § 6122. Excluded activities.

17 (a) General rule.--Without excluding other activities which
18 may not constitute doing business in this Commonwealth, a
19 foreign nonprofit corporation shall not be considered to be
20 doing business in this Commonwealth for the purposes of this
21 subchapter by reason of carrying on in this Commonwealth any one
22 or more of the following acts:

23 (1) Maintaining or defending any action or
24 administrative or arbitration proceeding or effecting the
25 settlement thereof or the settlement of claims or disputes.

26 (2) Holding meetings of its directors, other body or
27 members or carrying on other activities concerning its
28 internal affairs.

29 (3) Maintaining bank accounts.

30 (4) Maintaining offices or agencies for the transfer,

1 exchange and registration of its memberships or securities,
2 or appointing and maintaining trustees or depositories with
3 relation to its memberships or securities.

4 (5) Granting funds.

5 (6) Distributing information to its members.

6 (7) Creating as borrower or lender, acquiring or
7 incurring obligations or mortgages or other security
8 interests in real or personal property.

9 (8) Securing or collecting debts or enforcing any rights
10 in property securing them.

11 (9) Transacting any business in interstate or foreign
12 commerce.

13 (10) Conducting an isolated transaction completed within
14 a period of 30 days and not in the course of a number of
15 repeated transactions of like nature.

16 (11) Inspecting, appraising and acquiring real estate
17 and mortgages and other liens thereon and personal property
18 and security interests therein, and holding, leasing,
19 conveying and transferring them, as fiduciary or otherwise.

20 (b) Exceptions.--The specification of activities in
21 subsection (a) does not establish a standard for activities that
22 may subject a foreign corporation to:

23 (1) Service of process under any statute or general
24 rule.

25 (2) Taxation by the Commonwealth or any political
26 subdivision thereof.

27 (3) The provisions of section 6145 (relating to
28 applicability of certain safeguards to foreign domiciliary
29 corporations).

30 § 6123. Requirements for foreign corporation names.

1 (a) General rule.--The Department of State shall not issue a
2 certificate of authority to any foreign nonprofit corporation
3 that, except as provided in subsection (b), has a name that is
4 rendered unavailable for use by a domestic nonprofit corporation
5 by any provision of section 5303(a), (b) or (c) (relating to
6 corporate name).

7 (b) Exceptions.--

8 (1) The provisions of section 5303(b) (relating to
9 duplicate use of names) shall not prevent the issuance of a
10 certificate of authority to a foreign nonprofit corporation
11 setting forth a name that is not distinguishable upon the
12 records of the department from the name of any other domestic
13 or foreign corporation for profit or not-for-profit, or of
14 any corporation or other association then registered under 54
15 Pa.C.S. Ch. 5 (relating to corporate and other association
16 names) or to any name reserved or registered as provided in
17 this part, if the foreign nonprofit corporation applying for
18 a certificate of authority files in the department a
19 resolution of its board of directors or other body adopting a
20 fictitious name for use in transacting business in this
21 Commonwealth, which fictitious name is distinguishable upon
22 the records of the department from the name of the other
23 corporation or other association and from any name reserved
24 or registered as provided in this part that is otherwise
25 available for use by a domestic nonprofit corporation.

26 (2) The provisions of section 5303(c) (relating to
27 required approvals or conditions) shall not prevent the
28 issuance of a certificate of authority to a foreign nonprofit
29 corporation setting forth a name that is prohibited by that
30 subsection if the foreign nonprofit corporation applying for

1 a certificate of authority files in the department a
2 resolution of its board of directors or other body adopting a
3 fictitious name for use in transacting business in this
4 Commonwealth that is available for use by a domestic
5 nonprofit corporation.]

6 Section 40. Section 6124 of Title 15 is amended to read:

7 § 6124. [Application for a certificate of authority.]

8 Advertisement of registration to do business.

9 [(a) General rule.--An application for a certificate of
10 authority shall be executed by the foreign nonprofit corporation
11 and shall set forth:

12 (1) The name of the corporation.

13 (2) The name of the jurisdiction under the laws of which
14 it is incorporated.

15 (3) The address, including street and number, if any, of
16 its principal office under the laws of the jurisdiction in
17 which it is incorporated.

18 (4) Subject to section 109 (relating to name of
19 commercial registered office provider in lieu of registered
20 address), the address, including street and number, if any,
21 of its proposed registered office in this Commonwealth.

22 (5) A statement that it is a corporation incorporated
23 for a purpose or purposes not involving pecuniary profit,
24 incidental or otherwise.

25 (b) Advertisement.--]A foreign nonprofit corporation shall
26 officially publish notice of its intention to [apply or its
27 application for a certificate of authority] register to do
28 business or its registration to do business in this Commonwealth
29 under Chapter 4 (relating to foreign associations). The notice
30 may appear prior to or after the day on which [application is

1 made to the Department of State] a registration statement is
2 delivered to the department for filing and shall set forth
3 [briefly]:

4 (1) A statement that the corporation will [apply or has
5 applied for a certificate of authority under the provisions
6 of the Nonprofit Corporation Law of 1988] register or has
7 registered to do business in this Commonwealth under Chapter
8 4.

9 (2) The name of the corporation and [of the jurisdiction
10 under the laws of which it is incorporated] its jurisdiction
11 of formation.

12 (3) The address, including street and number, if any, of
13 its principal office under the laws of [the jurisdiction in
14 which it is incorporated] its jurisdiction of formation.

15 (4) Subject to section 109, the address, including
16 street and number, if any, of its proposed registered office
17 in this Commonwealth.

18 (c) [Filing.--The application for a certificate of authority
19 shall be filed in the Department of State.] (Reserved).

20 (d) [Cross reference.--See section 134 (relating to
21 docketing statement).] (Reserved).

22 Section 41. Sections 6125, 6126, 6127 and 6128 of Title 15
23 are repealed:

24 [§ 6125. Issuance of certificate of authority.

25 Upon the filing of the application for a certificate of
26 authority, the foreign nonprofit corporation shall be deemed to
27 hold a certificate of authority to do business in this
28 Commonwealth.

29 § 6126. Amended certificate of authority.

30 (a) General rule.--After receiving a certificate of

1 authority, a qualified foreign nonprofit corporation may,
2 subject to the provisions of this subchapter, change or correct
3 any of the information set forth in its application for a
4 certificate of authority or previous filings under this section
5 by filing in the Department of State an application for an
6 amended certificate of authority. The application shall be
7 executed by the corporation and shall state:

8 (1) The name under which the applicant corporation
9 currently holds a certificate of authority to do business in
10 this Commonwealth.

11 (2) Subject to section 109 (relating to name of
12 commercial registered office provider in lieu of registered
13 address), the address, including street and number, if any,
14 of its registered office in this Commonwealth.

15 (3) The information to be changed or corrected.

16 (4) If the application reflects a change in the name of
17 the corporation, the application shall include a statement
18 that either:

19 (i) the change of name reflects a change effected in
20 the jurisdiction of incorporation; or

21 (ii) documents complying with section 6123(b)
22 (relating to exceptions) accompany the application.

23 (b) Issuance of amended certificate of authority.--Upon the
24 filing of the application, the applicant corporation shall be
25 deemed to hold an amended certificate of authority.

26 (c) Cross reference.--See section 134 (relating to docketing
27 statement).

28 § 6127. Merger, consolidation or division of qualified foreign
29 corporations.

30 (a) General rule.--Whenever a qualified foreign nonprofit

1 corporation is a nonsurviving party to a statutory merger,
2 consolidation or division permitted by the laws of the
3 jurisdiction under which it is incorporated, the corporation
4 surviving the merger, or the new corporation resulting from the
5 consolidation or division, as the case may be, shall file in the
6 Department of State a statement of merger, consolidation or
7 division, which shall be executed by the surviving or new
8 corporation and shall set forth:

9 (1) The name of each nonsurviving qualified foreign
10 nonprofit corporation.

11 (2) The name of the jurisdictions under the laws of
12 which each nonsurviving qualified foreign nonprofit
13 corporation was incorporated.

14 (3) The date on which each nonsurviving qualified
15 foreign nonprofit corporation received a certificate of
16 authority to do business in this Commonwealth.

17 (4) A statement that the corporate existence of each
18 nonsurviving qualified foreign nonprofit corporation has been
19 terminated by merger, consolidation or division, as the case
20 may be.

21 (5) In the case of a consolidation or division or if the
22 surviving corporation was a nonqualified foreign nonprofit
23 corporation prior to the merger, the statements on the part
24 of the surviving or new corporation required by section
25 6124(a) (relating to application for a certificate of
26 authority).

27 (b) Effect of filing.--The filing of the statement shall
28 operate, as of the effective date of the merger, consolidation
29 or division, to cancel the certificate of authority of each
30 nonsurviving constituent corporation that was a qualified

1 foreign nonprofit corporation and to qualify the surviving or
2 new corporation under this subchapter. If the surviving or new
3 corporation does not desire to continue as a qualified foreign
4 nonprofit corporation, it may thereafter withdraw in the manner
5 provided by section 6129 (relating to application for
6 termination of authority).

7 (c) Surviving qualified foreign corporations.--It shall not
8 be necessary for a surviving corporation that was a qualified
9 foreign nonprofit corporation to effect any filing under this
10 subchapter with respect to a merger or division or to procure an
11 amended certificate of authority to do business in this
12 Commonwealth unless the name of such corporation is changed by
13 the merger or division.

14 (d) Cross reference.--See section 134 (relating to docketing
15 statement).

16 § 6128. Revocation of certificate of authority.

17 (a) General rule.--Whenever the Department of State finds
18 that a qualified foreign nonprofit corporation has failed to
19 secure an amended certificate of authority as required by this
20 subchapter after changing its name, or has failed or refused to
21 appear by its proper representatives, or otherwise to comply
22 with any subpoena issued by any court having jurisdiction of the
23 subject matter, or to produce books, papers, records or
24 documents as required by a subpoena, or is violating any of the
25 laws of this Commonwealth, or that its articles have been
26 revoked or voided by its jurisdiction of incorporation, the
27 department shall give notice and opportunity for hearing by
28 registered or certified mail to the corporation that the default
29 exists and that its certificate of authority, including any
30 amendments thereof, will be revoked unless the default is cured

1 within 30 days after the mailing of the notice. If the default
2 is not cured within the period of 30 days, the department shall
3 revoke the certificate of authority, including any amendments
4 thereof, of the foreign nonprofit corporation. Upon revoking the
5 certificate of authority, the department shall mail to the
6 corporation, at its registered office in this Commonwealth, a
7 certificate of revocation.

8 (b) Effect of revocation.--Upon the issuance of the
9 certificate of revocation, the authority of the corporation to
10 do business in this Commonwealth shall cease and the corporation
11 shall not thereafter do any business in this Commonwealth unless
12 it applies for and receives a new certificate of authority.]

13 Section 42. Section 6129 of Title 15 is amended to read:

14 § 6129. [Application for] Advertisement of termination of
15 [authority] registration to do business.

16 [(a) General rule.--Any qualified foreign nonprofit
17 corporation may withdraw from doing business in this
18 Commonwealth and surrender its certificate of authority by
19 filing in the Department of State an application for termination
20 of authority, executed by the corporation, which shall set
21 forth:

22 (1) The name of the corporation and, subject to section
23 109 (relating to name of commercial registered office
24 provider in lieu of registered address), the address,
25 including street and number, if any, of its registered office
26 in this Commonwealth.

27 (2) The name of the jurisdiction under the laws of which
28 it is incorporated.

29 (3) The date on which it received a certificate of
30 authority to do business in this Commonwealth.

1 (4) A statement that it surrenders its certificate of
2 authority to do business in this Commonwealth.

3 (5) A statement that notice of its intention to withdraw
4 from doing business in this Commonwealth was mailed by
5 certified or registered mail to each municipal corporation in
6 which the registered office or principal place of business of
7 the corporation in this Commonwealth is located, and that the
8 official publication required by subsection (b) has been
9 effected.

10 (6) The post office address, including street and
11 number, if any, to which process may be sent in an action or
12 proceeding upon any liability incurred before the filing of
13 the application for termination of authority.

14 (b) Advertisement.--]A [qualified] registered foreign
15 nonprofit corporation shall, before filing [an application for
16 termination of authority] a statement of withdrawal under
17 section 415 (relating to voluntary withdrawal of registration),
18 officially publish and mail a notice of its intention to
19 withdraw from doing business in this Commonwealth in a manner
20 similar to that required by section 5975(b) (relating to notice
21 to creditors and taxing authorities). The notice shall set forth
22 [briefly]:

23 (1) The name of the corporation and [the jurisdiction
24 under the laws of which it is incorporated] its jurisdiction
25 of formation.

26 (2) The address, including street and number, if any, of
27 its principal office under the laws of its jurisdiction of
28 [incorporation] formation.

29 (3) Subject to section 109, the address, including
30 street and number, if any, of its last registered office in

1 this Commonwealth.

2 (c) [Filing.--The application for termination of authority
3 and the certificates or statement required by section 139
4 (relating to tax clearance of certain fundamental transactions)
5 shall be filed in the department. See section 134 (relating to
6 docketing statement).] (Reserved).

7 (d) [Effect of filing.--Upon the filing of the application
8 for termination of authority, the authority of the corporation
9 to do business in this Commonwealth shall cease. The termination
10 of authority shall not affect any action or proceeding pending
11 at the time thereof or affect any right of action arising with
12 respect to the corporation before the filing of the application
13 for termination of authority. Process against the corporation in
14 an action upon any liability incurred before the filing of the
15 application for termination of authority may be served as
16 provided in 42 Pa.C.S. Ch. 53 (relating to bases of jurisdiction
17 and interstate and international procedure) or as otherwise
18 provided or prescribed by law.] (Reserved).

19 Section 43. Sections 6130, 6131, 6141, 6142, 6143, 6144 and
20 Subchapter D of Chapter 61 of Title 15 are repealed:

21 [§ 6130. Change of address after withdrawal.

22 (a) General rule.--Any foreign nonprofit corporation that
23 has withdrawn from doing business in this Commonwealth, or its
24 successor in interest, may, from time to time, change the
25 address to which process may be sent in an action upon any
26 liability incurred before the filing of an application for
27 termination of authority by filing in the Department of State a
28 statement of change of address by the withdrawn corporation
29 executed by the corporation, setting forth:

30 (1) The name of the withdrawn corporation and, if the

1 statement is filed by a successor in interest, the name and
2 capacity of the successor.

3 (2) The name of the jurisdiction under the laws of which
4 the corporation filing the statement is incorporated.

5 (3) The former post office address, including street and
6 number, if any, of the withdrawn corporation as of record in
7 the department.

8 (4) The new post office address, including street and
9 number, if any, of the withdrawn corporation or its
10 successor.

11 (b) Cross reference.--See section 134 (relating to docketing
12 statement).

13 § 6131. Registration of name.

14 (a) General rule.--A nonqualified foreign nonprofit
15 corporation may register its name under 54 Pa.C.S. Ch. 5
16 (relating to corporate and other association names) if the name
17 is available for use by a qualified foreign nonprofit
18 corporation under section 6123 (relating to requirements for
19 foreign corporation names), by filing in the Department of State
20 an application for registration of name, executed by the
21 corporation, which shall set forth:

22 (1) The name of the corporation.

23 (2) The address, including street and number, if any, of
24 the corporation.

25 (b) Annual renewal.--A corporation that has in effect a
26 registration of its corporate name may renew the registration
27 from year to year by annually filing an application for renewal
28 setting forth the facts required to be set forth in an original
29 application for registration. A renewal application may be filed
30 between October 1 and December 31 in each year and shall extend

1 the registration for the following calendar year.

2 (c) Cross reference.--See section 134 (relating to docketing
3 statement).

4 § 6141. Penalty for doing business without certificate of
5 authority.

6 (a) Right to bring actions suspended.--A nonqualified
7 foreign nonprofit corporation doing business in this
8 Commonwealth within the meaning of Subchapter B (relating to
9 qualification) shall not be permitted to maintain any action or
10 proceeding in any court of this Commonwealth until the
11 corporation has obtained a certificate of authority. Except as
12 provided in subsection (b), an action or proceeding may not be
13 maintained in any court of this Commonwealth by any successor or
14 assignee of the corporation on any right, claim or demand
15 arising out of the doing of business by the corporation in this
16 Commonwealth until a certificate of authority has been obtained
17 by the corporation or by a corporation that has acquired all or
18 substantially all of its assets.

19 (a.1) Contracts, property and defense against actions
20 unaffected.--The failure of a foreign nonprofit corporation to
21 obtain a certificate of authority to transact business in this
22 Commonwealth shall not impair the validity of any contract or
23 act of the corporation, shall not prevent the corporation from
24 defending any action in any court of this Commonwealth and shall
25 not render escheatable any of its real or personal property.

26 § 6142. General powers and duties of qualified foreign
27 corporations.

28 (a) General rule.--A qualified foreign nonprofit
29 corporation, so long as its certificate of authority is not
30 revoked, shall enjoy the same rights and privileges as a

1 domestic nonprofit corporation, but no more, and, except as in
2 this subpart otherwise provided, shall be subject to the same
3 liabilities, restrictions, duties and penalties now in force or
4 hereafter imposed upon domestic nonprofit corporations, to the
5 same extent as if it had been incorporated under this subpart.

6 (b) Agricultural lands.--Interests in agricultural land
7 shall be subject to the restrictions of and escheatable as
8 provided by the act of April 6, 1980 (P.L.102, No.39), referred
9 to as the Agricultural Land Acquisition by Aliens Law.

10 § 6143. General powers and duties of nonqualified foreign
11 corporations.

12 (a) Acquisition of real and personal property.--Every
13 nonqualified foreign nonprofit corporation may acquire, hold,
14 mortgage, lease and transfer real and personal property in this
15 Commonwealth, in the same manner and subject to the same
16 limitations as a qualified foreign nonprofit corporation.

17 (b) Duties.--Except as provided in section 6141(a) (relating
18 to penalty for doing business without certificate of authority),
19 a nonqualified foreign nonprofit corporation doing business in
20 this Commonwealth within the meaning of Subchapter B (relating
21 to qualification) shall be subject to the same liabilities,
22 restrictions, duties and penalties now or hereafter imposed upon
23 a qualified foreign nonprofit corporation.

24 § 6144. Registered office of qualified foreign corporations.

25 (a) General rule.--Subject to the provisions of section
26 5507(c) (relating to alternative procedure), every qualified
27 foreign nonprofit corporation shall have, and continuously
28 maintain, in this Commonwealth a registered office, which may
29 but need not be the same as its place of business in this
30 Commonwealth.

1 (b) Change.--A qualified foreign corporation may, from time
2 to time, change the address of its registered office in the
3 manner provided by section 5507(b) (relating to statement of
4 change of registered office).

5 SUBCHAPTER D

6 DOMESTICATION

7 Sec.

8 6161. Domestication.

9 6162. Effect of domestication.

10 § 6161. Domestication.

11 (a) General rule.--Any qualified foreign nonprofit
12 corporation may become a domestic nonprofit corporation by
13 filing in the Department of State articles of domestication. The
14 articles of domestication, upon being filed in the department,
15 shall constitute the articles of the domesticated foreign
16 corporation, and it shall thereafter continue as a corporation
17 which shall be a domestic nonprofit corporation subject to this
18 subpart.

19 (b) Articles of domestication.--The articles of
20 domestication shall be executed by the corporation and shall set
21 forth in the English language:

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

25 (2) Subject to section 109 (relating to name of
26 commercial registered office provider in lieu of registered
27 address), the address, including street and number, if any,
28 of its registered office in this Commonwealth.

29 (3) A statement that upon domestication the corporation
30 will be subject to the domestic corporation provisions of the

1 Nonprofit Corporation Law of 1988 and a brief statement of
2 the purpose or purposes for which it is to be domesticated
3 which shall be a purpose or purposes for which a domestic
4 nonprofit corporation may be incorporated under Article B
5 (relating to domestic nonprofit corporations generally).

6 (4) The term for which upon domestication it is to
7 exist, if not perpetual.

8 (5) Any desired provisions relating to the manner and
9 basis of reclassifying the memberships in the corporation.

10 (6) A statement that the filing of articles of
11 domestication and, if desired, the renunciation of the
12 original charter or articles of the corporation has been
13 authorized (unless its charter or other organic documents
14 require a greater vote) by a majority of the votes cast by
15 all members entitled to vote thereon and, if any class of
16 members is entitled to vote thereon as a class, a majority of
17 the votes cast in each class vote.

18 (7) Any other provisions authorized by Article B to be
19 set forth in the original articles.

20 (c) Cross reference.--See section 134 (relating to docketing
21 statement).

22 § 6162. Effect of domestication.

23 As a domestic nonprofit corporation, the domesticated
24 corporation shall no longer be a foreign nonprofit corporation
25 for the purposes of this subpart and shall have all the powers
26 and privileges and be subject to all the duties and limitations
27 granted and imposed upon domestic nonprofit corporations. The
28 property, franchises, debts, liens, estates, taxes, penalties
29 and public accounts due the Commonwealth shall continue to be
30 vested in and imposed upon the corporation to the same extent as

1 if it were the successor by merger of the domesticating
2 corporation with and into a domestic nonprofit corporation under
3 Subchapter C of Chapter 59 (relating to merger, consolidation
4 and sale of assets). Memberships in the domesticated corporation
5 shall be unaffected by the domestication except to the extent,
6 if any, reclassified in the articles of domestication.]

7 Section 43.1. Title 15 is amended by adding a section to
8 read:

9 § 7411. Expiration.

10 This chapter shall expire December 31, 2014.

11 Section 44. The definitions of "bureau" and "corporation" in
12 section 7702 of Title 15 are amended to read:

13 § 7702. Definitions.

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

17 ["Bureau." The Corporation Bureau of the department.]

18 "Corporation." A corporation [organized] for profit which
19 has elected to be governed by this chapter.

20 * * *

21 Section 45. Sections 7703(b)(1), 7704(d)(1) and 7723(a) of
22 Title 15 are amended to read:

23 § 7703. Corporations.

24 * * *

25 (b) Name.--

26 (1) [The corporation may adopt any corporate name to
27 indicate its cooperative character as long as the name has
28 not been previously adopted.] The name of the corporation
29 must comply with section 202 (relating to requirements for
30 names generally).

1 * * *

2 § 7704. Articles of incorporation.

3 * * *

4 (d) Content of articles.--The articles of incorporation
5 shall be signed by the persons originally associating themselves
6 together and shall state [distinctly]:

7 (1) The name [by which] of the corporation [shall be
8 known, which may not be the same as, or confusingly similar
9 to, the name of an association or corporation existing under
10 the law of the Commonwealth, the name of a foreign or alien
11 association or corporation authorized to transact business in
12 this Commonwealth, or a corporate name reserved or registered
13 as provided by law].

14 * * *

15 § 7723. Dissolution.

16 (a) General rule.--A corporation may dissolve and wind up;
17 may merge [or consolidate] with other corporations; and may sell
18 to, lease to or exchange with other corporations all or
19 substantially all of its property and assets. Except as
20 otherwise provided in this chapter, these actions are governed
21 by Chapter 3 (relating to entity transactions) and Subchapter C
22 of Chapter 19 (relating to merger[, consolidation, share
23 exchanges] liabilities and sale of assets). A workers'
24 cooperative corporation which has not revoked its election to be
25 governed by this chapter may not [consolidate or] merge with one
26 or more corporations organized under any law other than this
27 chapter. If a member objects to a corporation's merger [or
28 consolidation], the member may terminate membership in the
29 corporation. The price of redemption of the member's interest
30 shall be the amount in the member's individual capital account

1 on terms and conditions as the law, the articles of
2 incorporation and the bylaws provide.

3 * * *

4 Section 46. Section 8203 of Title 15 is repealed:

5 [§ 8203. Name.

6 (a) General rule.--The name of a registered limited
7 liability partnership shall:

8 (1) Not be one rendered unavailable for use by a
9 corporation by any provision of section 1303(b) and (c)
10 (relating to corporate name).

11 (2) Contain the term "company," "limited" or "limited
12 liability partnership," or an abbreviation of one of those
13 terms, or words or abbreviations of like import in English or
14 any other language.

15 (b) Reservation of name.--The exclusive right to the use of
16 a name for purposes of this subchapter may be reserved and
17 transferred in the manner provided in section 1305 (relating to
18 reservation of corporate name).]

19 Section 47. Section 8211(b) of Title 15 is amended to read:

20 § 8211. Foreign registered limited liability partnerships.

21 * * *

22 [(b) Registration to do business.--A foreign registered
23 limited liability partnership, regardless of whether or not it
24 is also a foreign limited partnership, shall be subject to
25 Subchapter K of Chapter 85 (relating to foreign limited
26 partnerships) as if it were a foreign limited partnership,
27 except that:

28 (1) Its application for registration shall state that it
29 is a registered limited liability partnership.

30 (2) The name under which it registers and conducts

1 business in this Commonwealth shall comply with the
2 requirements of section 8203 (relating to name).

3 (3) Section 8582(a)(5) and (6) (relating to
4 registration) shall not be applicable to the application for
5 registration of a foreign limited liability partnership that
6 is not a foreign limited partnership.]

7 * * *

8 Section 48. The definitions of "certificate of limited
9 partnership," "foreign limited partnership," "nonqualified
10 foreign limited partnership" and "qualified foreign limited
11 partnership" in section 8503(a) of Title 15 are amended to read:
12 § 8503. Definitions and index of definitions.

13 (a) Definitions.--The following words and phrases when used
14 in this chapter shall have the meanings given to them in this
15 section unless the context clearly indicates otherwise:

16 "Certificate of limited partnership." The certificate
17 referred to in section 8511 (relating to certificate of limited
18 partnership) and the certificate as amended. The term includes
19 any other statements or certificates permitted or required to be
20 filed in the Department of State by sections 108 (relating to
21 change in location or status of registered office provided by
22 agent) and 138 (relating to statement of correction), Chapter 3
23 (relating to entity transactions) or this part. If an amendment
24 of the certificate of limited partnership or a [certificate of
25 merger or division made in the manner permitted by this chapter]
26 statement filed under Chapter 3 restates the certificate in its
27 entirety [or if there is a certificate of consolidation],
28 thenceforth the "certificate of limited partnership" shall not
29 include any prior documents and any certificate issued by the
30 department with respect thereto shall so state.

1 * * *

2 "Foreign limited partnership." A partnership formed under
3 the laws of any jurisdiction other than this Commonwealth and
4 having as partners one or more general partners and one or more
5 limited partners, whether or not required to register under
6 [Subchapter K (relating to foreign limited partnerships)]
7 Chapter 4 (relating to foreign associations).

8 * * *

9 ["Nonqualified foreign limited partnership." A foreign
10 limited partnership that is not a qualified foreign limited
11 partnership as defined in this section.]

12 * * *

13 ["Qualified foreign limited partnership." A foreign limited
14 partnership that is registered under Subchapter K (relating to
15 foreign limited partnerships) to do business in this
16 Commonwealth.]

17 * * *

18 Section 49. Section 8505 of Title 15 is repealed:

19 [§ 8505. Name.

20 (a) General rule.--The name of each limited partnership as
21 set forth in its certificate of limited partnership:

22 (1) Shall be expressed in Roman letters or characters or
23 Arabic or Roman numerals.

24 (2) Shall not be one rendered unavailable to use by a
25 corporation by any provision of section 1303(b) and (c)
26 (relating to corporate name).

27 (3) May contain the name of a limited partner or a
28 general partner. See section 8523(d) (relating to use of name
29 of limited partner).

30 (b) Reservation of name.--The exclusive right to the use of

1 a name for purposes of this chapter may be reserved and
2 transferred in the manner provided by section 1305 (relating to
3 reservation of corporate name).]

4 Section 50. Sections 8513(d) and 8514(a) of Title 15 are
5 amended to read:

6 § 8513. Cancellation of certificate.

7 * * *

8 [(d) Dissolution by domestication.--Whenever a domestic
9 limited partnership has domesticated itself under the laws of
10 another jurisdiction by action similar to that provided by
11 section 8590 (relating to domestication) and has authorized that
12 action by the vote required by this chapter for the approval of
13 a proposal that the limited partnership dissolve voluntarily,
14 the limited partnership may surrender its certificate of limited
15 partnership under the laws of this Commonwealth by filing in the
16 department a certificate of cancellation under subsection (a).]

17 * * *

18 § 8514. Execution of certificates.

19 (a) General rule.--Each certificate or other document
20 required or permitted by this chapter to be [filed in] delivered
21 to the Department of State for filing shall be [executed] signed
22 in the following manner:

23 (1) An original certificate of limited partnership must
24 be signed by all general partners named therein.

25 (2) A certificate of amendment must be signed by at
26 least one general partner and by each other general partner
27 designated in the certificate as a new general partner.

28 (3) A certificate of cancellation must be signed by all
29 general partners or liquidating trustees or, if there is no
30 general partner or liquidating trustee, by a majority in

1 interest of the limited partners.

2 (4) A certificate of change of registered office must be
3 signed by a general partner.

4 (5) A certificate of summary of record must be signed by
5 all general partners.

6 (6) A certificate of withdrawal must be signed by the
7 person withdrawing.

8 (7) A certificate of termination must be signed by a
9 general partner.

10 (8) A [certificate of merger, consolidation or division]
11 statement of merger, interest exchange, conversion, division
12 or domestication must be signed by a general partner.

13 (9) [An application for registration as a foreign
14 limited partnership] A foreign registration statement must be
15 signed by a general partner.

16 (10) [A certificate of amendment of registration of a
17 foreign limited partnership] An amendment of a foreign
18 registration statement must be signed by a general partner.

19 (11) A [certificate of cancellation of registration of]
20 statement of withdrawal by a foreign limited partnership must
21 be signed by a general partner.

22 [(12) A certificate of domestication must be signed by a
23 general partner.]

24 * * *

25 Section 51. Subchapter F of Chapter 85 of Title 15 is
26 repealed:

27 [SUBCHAPTER F
28 MERGER AND CONSOLIDATION
29 Sec.

30 8545. Merger and consolidation of limited partnerships

1 authorized.

2 8546. Approval of merger or consolidation.

3 8547. Certificate of merger or consolidation.

4 8548. Effective date of merger or consolidation.

5 8549. Effect of merger or consolidation.

6 § 8545. Merger and consolidation of limited partnerships
7 authorized.

8 (a) Domestic surviving or new limited partnership.--Any two
9 or more domestic limited partnerships, or any two or more
10 foreign limited partnerships, or any one or more domestic
11 limited partnerships and any one or more foreign limited
12 partnerships, may, in the manner provided in this subchapter, be
13 merged into one of the domestic limited partnerships, designated
14 in this subchapter as the surviving limited partnership, or
15 consolidated into a new limited partnership to be formed under
16 this chapter, if the foreign limited partnerships are authorized
17 by the laws of the jurisdiction under which they are organized
18 to effect a merger or consolidation with a limited partnership
19 of another jurisdiction.

20 (b) Foreign surviving or new limited partnership.--Any one
21 or more domestic limited partnerships, and any one or more
22 foreign limited partnerships, may, in the manner provided in
23 this subchapter, be merged into one of the foreign limited
24 partnerships, designated in this subchapter as the surviving
25 limited partnership, or consolidated into a new limited
26 partnership to be organized under the laws of the jurisdiction
27 under which one of the foreign limited partnerships is
28 organized, if the laws of that jurisdiction authorize a merger
29 with or consolidation into a limited partnership of another
30 jurisdiction.

1 (c) Business trusts and other associations.--The provisions
2 of this subchapter applicable to domestic and foreign limited
3 partnerships shall also be applicable to a merger or
4 consolidation to which a domestic limited partnership is a party
5 or in which such a partnership is the resulting entity with or
6 into a domestic or foreign corporation, business trust, general
7 partnership or other association. Except as otherwise provided
8 by law in this or any other state, the powers and duties vested
9 in and imposed upon the general partners and limited partners in
10 this subchapter shall be exercised and performed by the group of
11 persons under the direction of whom the business and affairs of
12 the corporation, business trust or other association are managed
13 and the holders or owners of shares or other interests in the
14 corporation, business trust or other association, respectively,
15 irrespective of the names by which the managing group and the
16 holders or owners of shares or other interests are designated.
17 The units into which the shares or other interests in the
18 corporation, business trust or other association are divided
19 shall be deemed to be partnership interests for the purposes of
20 applying the provisions of this subchapter to a merger or
21 consolidation involving the corporation, business trust or other
22 association.

23 § 8546. Approval of merger or consolidation.

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

27 (1) The terms and conditions of the merger or
28 consolidation.

29 (2) If the surviving or new partnership is or is to be a
30 domestic limited partnership:

1 (i) in the case of a merger, any changes desired to
2 be made in the certificate of limited partnership or
3 partnership agreement, which may include a restatement of
4 either or both; or

5 (ii) in the case of a consolidation:

6 (A) all of the statements required by this
7 chapter to be set forth in a restated certificate of
8 limited partnership; and

9 (B) the written provisions, if any, of the
10 partnership agreement.

11 (3) The manner and basis of converting the partnership
12 interests of each limited partnership into partnership
13 interests, securities or obligations of the surviving or new
14 limited partnership, as the case may be, and, if any of the
15 partnership interests of any of the limited partnerships that
16 are parties to the merger or consolidation are not to be
17 converted solely into partnership interests, securities or
18 obligations of the surviving or new limited partnership, the
19 partnership interests, securities or obligations of any other
20 person or cash, property or rights that the holders of such
21 partnership interests are to receive in exchange for, or upon
22 conversion of, such partnership interests, and the surrender
23 of any certificates evidencing them, which securities or
24 obligations, if any, of any other person or cash, property or
25 rights may be in addition to or in lieu of the partnership
26 interests, securities or obligations of the surviving or new
27 limited partnership.

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

29 (b) Post-adoption amendment of plan of merger or
30 consolidation.--A plan of merger or consolidation may contain a

1 provision that the general partners of the constituent limited
2 partnerships may amend the plan at any time prior to its
3 effective date, except that an amendment made subsequent to any
4 adoption of the plan by the limited partners of any constituent
5 domestic limited partnership shall not change:

6 (1) The amount or kind of partnership interests,
7 obligations, cash, property or rights to be received in
8 exchange for or on conversion of all or any of the
9 partnership interests of the constituent domestic limited
10 partnership adversely to the holders of those partnership
11 interests.

12 (2) Any term of the certificate of limited partnership
13 or partnership agreement of the surviving or new limited
14 partnership as it is to be in effect immediately following
15 consummation of the merger or consolidation except provisions
16 that may be amended without the approval of the limited
17 partners.

18 (3) Any of the other terms and conditions of the plan if
19 the change would adversely affect the holders of any
20 partnership interests of the constituent domestic limited
21 partnership.

22 (c) Proposal of merger or consolidation.--Every merger or
23 consolidation shall be proposed in the case of each domestic
24 limited partnership by the adoption by the general partners of a
25 resolution approving the plan of merger or consolidation. Except
26 where the approval of the limited partners is unnecessary under
27 this subchapter or the partnership agreement, the general
28 partners shall submit the plan to a vote of the limited partners
29 entitled to vote thereon at a regular or special meeting of the
30 limited partners.

1 (d) Party to plan.--An association that approves a plan in
2 its capacity as a partner or creditor of a merging or
3 consolidating limited partnership, or that furnishes all or a
4 part of the consideration contemplated by a plan, does not
5 thereby become a party to the merger or consolidation for the
6 purposes of this subchapter.

7 (e) Notice of meeting of limited partners.--Notwithstanding
8 any other provision of the partnership agreement, written notice
9 of the meeting of limited partners called for the purpose of
10 considering the proposed plan shall be given to each limited
11 partner of record, whether or not entitled to vote thereon, of
12 each domestic limited partnership that is a party to the
13 proposed merger or consolidation. There shall be included in, or
14 enclosed with, the notice a copy of the proposed plan or a
15 summary thereof. The provisions of this subsection may not be
16 relaxed by the certificate of limited partnership or partnership
17 agreement.

18 (f) Adoption of plan by limited partners.--The plan of
19 merger or consolidation shall be adopted upon receiving a
20 majority of the votes cast by all limited partners, if any,
21 entitled to vote thereon of each of the domestic limited
22 partnerships that is a party to the proposed merger or
23 consolidation and, if any class of limited partners is entitled
24 to vote thereon as a class, a majority of the votes cast in each
25 class vote. A proposed plan of merger or consolidation shall not
26 be deemed to have been adopted by the limited partnership unless
27 it has also been approved by the general partners, regardless of
28 the fact that the general partners have directed or suffered the
29 submission of the plan to the limited partners for action.

30 (g) Adoption by general partners.--

1 (1) Unless otherwise required by the partnership
2 agreement, a plan of merger or consolidation shall not
3 require the approval of the limited partners of a limited
4 partnership if:

5 (i) the plan, whether or not the limited partnership
6 is the surviving limited partnership, does not alter the
7 status of the limited partnership as a domestic limited
8 partnership or alter in any respect the provisions of its
9 certificate of limited partnership or partnership
10 agreement, except changes that may be made without action
11 by the limited partners; and

12 (ii) each partnership interest outstanding
13 immediately prior to the effective date of the merger or
14 consolidation is to continue as or to be converted into,
15 except as may be otherwise agreed by the holder thereof,
16 an identical partnership interest in the surviving or new
17 limited partnership after the effective date of the
18 merger or consolidation.

19 (2) If a merger or consolidation is effected pursuant to
20 paragraph (1), the plan of merger or consolidation shall be
21 deemed adopted by the limited partnership when it has been
22 adopted by the general partners pursuant to subsection (c).

23 (h) Termination of plan.--Prior to the time when a merger or
24 consolidation becomes effective, the merger or consolidation may
25 be terminated pursuant to provisions therefor, if any, set forth
26 in the plan. If a certificate of merger or consolidation has
27 been filed in the department prior to the termination, a
28 certificate of termination executed by each limited partnership
29 that is a party to the merger or consolidation, unless the plan
30 permits termination by less than all of the limited

1 partnerships, in which case the certificate shall be executed on
2 behalf of the limited partnership exercising the right to
3 terminate, shall be filed in the department. The certificate of
4 termination shall set forth:

5 (1) A copy of the certificate of merger or consolidation
6 relating to the plan that is terminated.

7 (2) A statement that the plan has been terminated in
8 accordance with the provisions therefor set forth therein.

9 See sections 134 (relating to docketing statement), 135
10 (relating to requirements to be met by filed documents), 138
11 (relating to statement of correction) and 8514 (relating to
12 execution of certificates).

13 (i) Authorization by foreign limited partnerships.--The plan
14 of merger or consolidation shall be authorized, adopted or
15 approved by each foreign limited partnership that desires to
16 merge or consolidate in accordance with the laws of the
17 jurisdiction in which it is organized.

18 (j) Reference to outside facts.--Any of the terms of a plan
19 of merger or consolidation may be made dependent upon facts
20 ascertainable outside of the plan if the manner in which the
21 facts will operate upon the terms of the plan is set forth in
22 the plan. Such facts may include, without limitation, actions or
23 events within the control of or determinations made by a party
24 to the plan or a representative of a party to the plan.

25 § 8547. Certificate of merger or consolidation.

26 (a) General rule.--Upon the adoption of the plan of merger
27 or consolidation by the limited partnerships desiring to merge
28 or consolidate, as provided in this subchapter, a certificate of
29 merger or a certificate of consolidation, as the case may be,
30 shall be executed by each limited partnership and shall, subject

1 to section 109 (relating to name of commercial registered office
2 provider in lieu of registered address), set forth:

3 (1) The name and the location of the registered office,
4 including street and number, if any, of the domestic
5 surviving or new limited partnership or, in the case of a
6 foreign surviving or new limited partnership, the name of the
7 limited partnership and its jurisdiction of organization,
8 together with either of the following:

9 (i) If a qualified foreign limited partnership, the
10 address, including street and number, if any, of its
11 registered office in this Commonwealth.

12 (ii) If a nonqualified foreign limited partnership,
13 the address, including street and number, if any, of its
14 principal office under the laws of the jurisdiction in
15 which it is organized.

16 (2) The name and address, including street and number,
17 if any, of the registered office of each other domestic
18 limited partnership and qualified foreign limited partnership
19 that is a party to the plan.

20 (3) If the plan is to be effective on a specified date,
21 the hour, if any, and the month, day and year of the
22 effective date.

23 (4) The manner in which the plan was adopted by each
24 domestic limited partnership and, if one or more foreign
25 limited partnerships are parties to the plan, the fact that
26 the plan was authorized, adopted or approved, as the case may
27 be, by each of the foreign limited partnerships in accordance
28 with the laws of the jurisdiction in which it is organized.

29 (5) Except as provided in subsection (b), the plan of
30 merger or consolidation.

1 (b) Omission of certain provisions of plan of merger or
2 consolidation.--A certificate of merger or consolidation may
3 omit all provisions of the plan of merger or consolidation
4 except provisions, if any, that are intended to amend or
5 constitute the operative provisions of the certificate of
6 limited partnership of a limited partnership as in effect
7 subsequent to the effective date of the plan, if the certificate
8 of merger or consolidation states that the full text of the plan
9 is on file at the principal place of business of the surviving
10 or new limited partnership and states the address thereof. A
11 limited partnership that takes advantage of this subsection
12 shall furnish a copy of the full text of the plan, on request
13 and without cost, to any partner of any limited partnership that
14 was a party to the plan and, unless all parties to the plan had
15 fewer than 30 partners each, on request and at cost to any other
16 person.

17 (c) Filing of certificate of merger or consolidation.--The
18 certificate of merger or certificate of consolidation, as the
19 case may be, and the certificates or statement, if any, required
20 by section 139 (relating to tax clearance of certain fundamental
21 transactions) shall be filed in the department.

22 (d) Cross references.--See sections 134 (relating to
23 docketing statement) and 8514 (relating to execution of
24 certificates).

25 § 8548. Effective date of merger or consolidation.

26 Upon the filing of the certificate of merger or the
27 certificate of consolidation in the Department of State or upon
28 the effective date specified in the plan of merger or
29 consolidation, whichever is later, the merger or consolidation
30 shall be effective. The merger or consolidation of one or more

1 domestic limited partnerships into a foreign limited partnership
2 shall be effective according to the provisions of law of the
3 jurisdiction in which the foreign limited partnership is
4 organized, but not until a certificate of merger or certificate
5 of consolidation has been adopted and filed, as provided in this
6 subchapter.

7 § 8549. Effect of merger or consolidation.

8 (a) Single surviving or new limited partnership.--Upon the
9 merger or consolidation becoming effective, the several limited
10 partnerships parties to the plan of merger or consolidation
11 shall be a single limited partnership which, in the case of a
12 merger, shall be the limited partnership designated in the plan
13 of merger as the surviving limited partnership and, in the case
14 of a consolidation, shall be the new limited partnership
15 provided for in the plan of consolidation. The separate
16 existence of all limited partnerships parties to the plan of
17 merger or consolidation shall cease, except that of the
18 surviving limited partnership, in the case of a merger.

19 (b) Property rights.--All the property, real, personal and
20 mixed, of each of the limited partnerships parties to the plan
21 of merger or consolidation, and all debts due on whatever
22 account to any of them, as well as all other things and causes
23 of action belonging to any of them, shall be deemed to be vested
24 in and shall belong to the surviving or new limited partnership,
25 as the case may be, without further action, and the title to any
26 real estate, or any interest therein, vested in any of the
27 limited partnerships shall not revert or be in any way impaired
28 by reason of the merger or consolidation. The surviving or new
29 limited partnership shall thenceforth be responsible for all the
30 liabilities of each of the limited partnerships so merged or

1 consolidated. Liens upon the property of the merging or
2 consolidating limited partnerships shall not be impaired by the
3 merger or consolidation, and any claim existing or action or
4 proceeding pending by or against any of the limited partnerships
5 may be prosecuted to judgment as if the merger or consolidation
6 had not taken place or the surviving or new limited partnership
7 may be proceeded against or substituted in its place.

8 (c) Taxes.--Any taxes, interest, penalties and public
9 accounts of the Commonwealth claimed against any of the merging
10 or consolidating limited partnerships that are settled, assessed
11 or determined prior to or after the merger or consolidation
12 shall be the liability of the surviving or new limited
13 partnership and, together with interest thereon, shall be a lien
14 against the property, both real and personal, of the surviving
15 or new limited partnership.

16 (d) Certificate of limited partnership.--In the case of a
17 merger, the certificate of limited partnership of the surviving
18 domestic limited partnership, if any, shall be deemed to be
19 amended to the extent, if any, that changes in its certificate
20 of limited partnership are stated in the plan of merger. In the
21 case of a consolidation into a domestic limited partnership, the
22 statements that are set forth in the plan of consolidation, or
23 certificate of limited partnership set forth therein, shall be
24 deemed to be the certificate of limited partnership of the new
25 limited partnership.]

26 Section 52. Section 8571(c) of Title 15 is amended to read:

27 § 8571. Nonjudicial dissolution.

28 * * *

29 [(c) Dissolution by domestication.--Whenever a domestic
30 limited partnership has domesticated itself under the laws of

1 another jurisdiction by action similar to that provided by
2 section 8590 (relating to domestication) and has authorized that
3 action in the manner required by this subchapter for the
4 approval of a proposal that the partnership dissolve
5 voluntarily, the partnership may surrender its certificate of
6 limited partnership under the laws of this Commonwealth by
7 filing in the department a certificate of cancellation under
8 section 8513 (relating to cancellation of certificate). If the
9 partnership, as domesticated in the other jurisdiction,
10 registers to do business in this Commonwealth either prior to or
11 simultaneously with the filing of the certificate of
12 cancellation under this subsection, the partnership shall not be
13 required to file with the certificate of cancellation the tax
14 clearance certificates that would otherwise be required by
15 section 139 (relating to tax clearance of certain fundamental
16 transactions).]

17 * * *

18 Section 53. Subchapters J and K of Chapter 85 of Title 15
19 are repealed:

20 [SUBCHAPTER J

21 DIVISION

22 Sec.

23 8576. Division authorized.

24 8577. Proposal and adoption of plan of division.

25 8578. Division without approval of limited partners.

26 8579. Certificate of division.

27 8580. Effect of division.

28 § 8576. Division authorized.

29 (a) Division of domestic limited partnership.--Any domestic
30 limited partnership may, in the manner provided in this

1 subchapter, be divided into two or more domestic limited
2 partnerships organized or to be organized under this chapter or
3 into one or more domestic limited partnerships and one or more
4 foreign limited partnerships to be organized under the laws of
5 another jurisdiction or jurisdictions or into two or more
6 foreign limited partnerships if the laws of the other
7 jurisdictions authorize the division.

8 (b) Division of foreign limited partnership.--Any foreign
9 limited partnership may, in the manner provided in this
10 subchapter, be divided into one or more domestic limited
11 partnerships to be organized under this chapter and one or more
12 foreign limited partnerships organized or to be organized under
13 the laws of another jurisdiction or jurisdictions or into two or
14 more domestic limited partnerships if the foreign limited
15 partnership is authorized under the laws of the jurisdiction
16 under which it is organized to effect a division.

17 (c) Surviving and new limited partnerships.--The limited
18 partnership effecting a division, if it survives the division,
19 is designated in this subchapter as the surviving limited
20 partnership. All limited partnerships originally organized by a
21 division are designated in this subchapter as new limited
22 partnerships. The surviving limited partnership, if any, and the
23 new limited partnership or partnerships are collectively
24 designated in this subchapter as the resulting limited
25 partnerships.

26 § 8577. Proposal and adoption of plan of division.

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

29 (1) The terms and conditions of the division, including
30 the manner and basis of:

1 (i) The reclassification of the partnership
2 interests in the surviving limited partnership, if there
3 be one, and, if any of the partnership interests in the
4 dividing limited partnership are not to be converted
5 solely into partnership interests or other securities or
6 obligations of one or more of the resulting limited
7 partnerships, the partnership interests or other
8 securities or obligations of any other person or cash,
9 property or rights that the holders of the partnership
10 interests are to receive in exchange for or upon
11 conversion of the partnership interests and the surrender
12 of any certificates evidencing them, which securities or
13 obligations, if any, of any other person or cash,
14 property or rights may be in addition to or in lieu of
15 partnership interests or other securities or obligations
16 of one or more of the resulting limited partnerships.

17 (ii) The disposition of the partnership interests
18 and other securities or obligations, if any, of the new
19 limited partnership or partnerships resulting from the
20 division.

21 (2) A statement that the dividing limited partnership
22 will or will not survive the division.

23 (3) Any changes desired to be made in the certificate of
24 limited partnership of the surviving limited partnership, if
25 there be one, including a restatement of the certificate.

26 (4) The certificates of limited partnership required by
27 subsection (c).

28 (5) Such other provisions as are deemed desirable.

29 (b) Reference to outside facts.--Any of the terms of the
30 plan may be made dependent upon facts ascertainable outside of

1 the plan if the manner in which the facts will operate upon the
2 terms of the plan is set forth in the plan. Such facts may
3 include, without limitation, actions or events within the
4 control of or determinations made by the dividing limited
5 partnership or a representative of the dividing limited
6 partnership.

7 (c) Certificates of limited partnership of new limited
8 partnerships.--There shall be included in or annexed to the plan
9 of division:

10 (1) Certificates of limited partnership, which shall
11 contain all of the statements required by this chapter to be
12 set forth in a restated certificate of limited partnership
13 for each of the new domestic limited partnerships, if any,
14 resulting from the division.

15 (2) Certificates of limited partnership or other
16 organizational documents for each of the new foreign limited
17 partnerships, if any, resulting from the division.

18 (d) Proposal and adoption.--Except as otherwise provided in
19 section 8578 (relating to division without approval of limited
20 partners), the plan of division shall be proposed and adopted
21 and may be amended after its adoption and termination by a
22 domestic limited partnership in the manner provided for the
23 proposal, adoption, amendment and termination of a plan of
24 merger in Subchapter F (relating to merger and consolidation),
25 except section 8546(g) (relating to approval of merger or
26 consolidation) or, if the dividing limited partnership is a
27 foreign limited partnership, in accordance with the laws of the
28 jurisdiction in which it is organized. There shall be included
29 in or enclosed with the notice of the meeting of limited
30 partners to act on the plan, a copy or a summary of the plan.

1 (f) Rights of holders of indebtedness.--If any such debt
2 securities, notes, similar evidences of indebtedness, indentures
3 or other contracts were issued, incurred or executed by the
4 dividing limited partnership before August 21, 2001, and have
5 not been amended subsequent to that date, the liability of the
6 dividing limited partnership thereunder shall not be affected by
7 the division nor shall the rights of the obligees thereunder be
8 impaired by the division, and each of the resulting limited
9 partnerships may be proceeded against or substituted in place of
10 the dividing limited partnership as joint and several obligors
11 on such liability, regardless of any provision of the plan of
12 division apportioning the liabilities of the dividing limited
13 partnership.

14 (g) Special requirements.--If any provision of the
15 certificate of limited partnership or partnership agreement of a
16 dividing domestic limited partnership adopted before February 5,
17 1995, requires for the proposal or adoption of a plan of merger
18 or consolidation a specific number or percentage of votes of
19 general or limited partners or other special procedures, the
20 plan of division shall not be proposed or adopted by the general
21 or limited partners without that number or percentage of votes
22 or compliance with the other special procedures.

23 § 8578. Division without approval of limited partners.

24 Unless otherwise restricted by its partnership agreement, a
25 plan of division that does not alter the state of organization
26 of a limited partnership nor amend in any respect the provisions
27 of its certificate of limited partnership or partnership
28 agreement (except amendments that may be made without action by
29 the limited partners) shall not require the approval of the
30 limited partners of the limited partnership if:

1 (1) the dividing limited partnership survives the
2 division and all the partnership interests and other
3 securities and obligations, if any, of all new limited
4 partnerships resulting from the plan are owned solely by the
5 surviving limited partnership; or

6 (2) the transfers of assets effected by the division, if
7 effected by means of a sale, lease, exchange or other
8 disposition, would not require the approval of the limited
9 partners.

10 § 8579. Certificate of division.

11 (a) Contents.--Upon the adoption of a plan of division by
12 the limited partnership desiring to divide, as provided in this
13 subchapter, a certificate of division shall be executed by the
14 limited partnership and shall, subject to section 109 (relating
15 to name of commercial registered office provider in lieu of
16 registered address), set forth:

17 (1) The name and the location of the registered office,
18 including street and number, if any, of the dividing domestic
19 limited partnership or, in the case of a dividing foreign
20 limited partnership, the name of the limited partnership and
21 the jurisdiction in which it is organized, together with
22 either:

23 (i) If a qualified foreign limited partnership, the
24 address, including street and number, if any, of its
25 registered office in this Commonwealth.

26 (ii) If a nonqualified foreign limited partnership,
27 the address, including street and number, if any, of its
28 principal office under the laws of that jurisdiction.

29 (2) The statute under which the dividing limited
30 partnership was organized and the date of organization.

1 (3) A statement that the dividing limited partnership
2 will or will not survive the division.

3 (4) The name and the address, including street and
4 number, if any, of the registered office of each new domestic
5 limited partnership or qualified foreign limited partnership
6 resulting from the division.

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

10 (6) The manner in which the plan was adopted by the
11 limited partnership.

12 (7) The plan of division.

13 (b) Filing.--The certificate of division and the
14 certificates or statement, if any, required by section 139
15 (relating to tax clearance of certain fundamental transactions)
16 shall be filed in the Department of State.

17 (c) Effective date of certificate of division.--Upon the
18 filing of a certificate of division in the Department of State
19 or upon the effective date specified in the plan of division,
20 whichever is later, the division shall become effective. The
21 division of a domestic limited partnership into one or more
22 foreign limited partnerships or the division of a foreign
23 limited partnership shall be effective according to the laws of
24 the jurisdictions where the foreign limited partnerships are or
25 are to be organized, but not until a certificate of division has
26 been adopted and filed as provided in this subchapter.

27 (d) Cross references.--See sections 134 (relating to
28 docketing statement), 135 (relating to requirements to be met by
29 filed documents) and 8514 (relating to execution of
30 certificates).

1 § 8580. Effect of division.

2 (a) Multiple resulting limited partnerships.--Upon the
3 division becoming effective, the dividing limited partnership
4 shall be subdivided into the distinct and independent resulting
5 limited partnerships named in the plan of division, and, if the
6 dividing limited partnership is not to survive the division, the
7 existence of the dividing limited partnership shall cease. The
8 resulting limited partnerships, if they are domestic limited
9 partnerships, shall not thereby acquire authority to engage in
10 any business or exercise any right that a limited partnership
11 may not be organized under this chapter to engage in or
12 exercise. Any resulting foreign limited partnership that is
13 stated in the certificate of division to be a qualified foreign
14 limited partnership shall be a qualified foreign limited
15 partnership under Subchapter K (relating to foreign limited
16 partnerships), and the certificate of division shall be deemed
17 to be the application for registration as a foreign limited
18 partnership of the limited partnership.

19 (b) Property rights; allocations of assets and
20 liabilities.--

21 (1) (i) All the property, real, personal and mixed, of
22 the dividing limited partnership, and all debts due on
23 whatever account to it, including subscriptions for
24 partnership interests or other causes of action belonging
25 to it, shall, except as otherwise provided in paragraph
26 (2), to the extent allocations of assets are contemplated
27 by the plan of division, be deemed without further action
28 to be allocated to and vested in the resulting limited
29 partnerships on such a manner and basis and with such
30 effect as is specified in the plan, or per capita among

1 the resulting limited partnerships, as tenants in common,
2 if no specification is made in the plan, and the title to
3 any real estate or interest therein vested in any of the
4 limited partnerships shall not revert or be in any way
5 impaired by reason of the division.

6 (ii) Upon the division becoming effective, the
7 resulting limited partnerships shall each thenceforth be
8 responsible as separate and distinct limited partnerships
9 only for such liabilities as each limited partnership may
10 undertake or incur in its own name but shall be liable
11 for the liabilities of the dividing limited partnership
12 in the manner and on the basis provided in subparagraphs
13 (iv) and (v).

14 (iii) Liens upon the property of the dividing
15 limited partnership shall not be impaired by the
16 division.

17 (iv) To the extent allocations of liabilities are
18 contemplated by the plan of division, the liabilities of
19 the dividing limited partnership shall be deemed without
20 further action to be allocated to and become the
21 liabilities of the resulting limited partnerships on such
22 a manner and basis and with such effect as is specified
23 in the plan; and one or more but less than all of the
24 resulting limited partnerships shall be free of the
25 liabilities of the dividing limited partnership to the
26 extent, if any, specified in the plan if in either case:

27 (A) no fraud of partners or violation of law
28 shall be effected thereby; and

29 (B) the plan does not constitute a fraudulent
30 transfer under 12 Pa.C.S. Ch. 51 (relating to

1 fraudulent transfers).

2 (v) If the conditions in subparagraph (iv) for
3 freeing one or more of the resulting limited partnerships
4 from the liabilities of the dividing limited partnership,
5 or for allocating some or all of the liabilities of the
6 dividing limited partnership, are not satisfied, the
7 liabilities of the dividing limited partnership as to
8 which those conditions are not satisfied shall not be
9 affected by the division nor shall the rights of
10 creditors thereunder or of any person dealing with the
11 limited partnership be impaired by the division, and any
12 claim existing or action or proceeding pending by or
13 against the limited partnership with respect to those
14 liabilities may be prosecuted to judgment as if the
15 division had not taken place, or the resulting limited
16 partnerships may be proceeded against or substituted in
17 place of the dividing limited partnership as joint and
18 several obligors on those liabilities, regardless of any
19 provision of the plan of division apportioning the
20 liabilities of the dividing limited partnership.

21 (vi) The conditions in subparagraph (iv) for freeing
22 one or more of the resulting limited partnerships from
23 the liabilities of the dividing limited partnership and
24 for allocating some or all of the liabilities of the
25 dividing limited partnership shall be conclusively deemed
26 to have been satisfied if the plan of division has been
27 approved by the Pennsylvania Public Utility Commission in
28 a final order issued after August 21, 2001, that has
29 become not subject to further appeal.

30 (2) (i) The allocation of any fee or freehold interest

1 or leasehold having a remaining term of 30 years or more
2 in any tract or parcel of real property situate in this
3 Commonwealth owned by a dividing limited partnership
4 (including property owned by a foreign limited
5 partnership dividing solely under the law of another
6 jurisdiction) to a new limited partnership resulting from
7 the division shall not be effective until one of the
8 following documents is filed in the office for the
9 recording of deeds of the county, or each of them, in
10 which the tract or parcel is situated:

11 (A) A deed, lease or other instrument of
12 confirmation describing the tract or parcel.

13 (B) A duly executed duplicate original copy of
14 the certificate of division.

15 (C) A copy of the certificate of division
16 certified by the Department of State.

17 (D) A declaration of acquisition setting forth
18 the value of real estate holdings in the county of
19 the limited partnership as an acquired company.

20 (ii) The provisions of 75 Pa.C.S. § 1114 (relating
21 to transfer of vehicle by operation of law) shall not be
22 applicable to an allocation of ownership of any motor
23 vehicle, trailer or semitrailer to a new limited
24 partnership under this section or under a similar law of
25 any other jurisdiction, but any such allocation shall be
26 effective only upon compliance with the requirements of
27 75 Pa.C.S. § 1116 (relating to issuance of new
28 certificate following transfer).

29 (3) It shall not be necessary for a plan of division to
30 list each individual asset or liability of the dividing

1 limited partnership to be allocated to a new limited
2 partnership so long as those assets and liabilities are
3 described in a reasonable and customary manner.

4 (4) Each new limited partnership shall hold any assets
5 and liabilities allocated to it as the successor to the
6 dividing limited partnership, and those assets and
7 liabilities shall not be deemed to have been assigned to the
8 new limited partnership in any manner, whether directly or
9 indirectly or by operation of law.

10 (c) Taxes.--Any taxes, interest, penalties and public
11 accounts of the Commonwealth claimed against the dividing
12 limited partnership that are settled, assessed or determined
13 prior to or after the division shall be the liability of any of
14 the resulting limited partnerships and, together with interest
15 thereon, shall be a lien against the franchises and property,
16 both real and personal, of all the limited partnerships. Upon
17 the application of the dividing limited partnership, the
18 Department of Revenue, with the concurrence of the Office of
19 Employment Security of the Department of Labor and Industry,
20 shall release one or more, but less than all, of the resulting
21 limited partnerships from liability and liens for all taxes,
22 interest, penalties and public accounts of the dividing limited
23 partnership due the Commonwealth for periods prior to the
24 effective date of the division if those departments are
25 satisfied that the public revenues will be adequately secured.

26 (d) Certificate of limited partnership of surviving limited
27 partnership.--The certificate of limited partnership of the
28 surviving limited partnership, if there be one, shall be deemed
29 to be amended to the extent, if any, that changes in its
30 certificate of limited partnership are stated in the plan of

1 division.

2 (e) Certificates of limited partnership of new limited
3 partnerships.--The statements that are set forth in the plan of
4 division with respect to each new domestic limited partnership
5 and that are required or permitted to be set forth in a restated
6 certificate of limited partnership of limited partnerships
7 organized under this chapter, or the certificate of limited
8 partnership of each new limited partnership set forth therein,
9 shall be deemed to be the certificate of limited partnership of
10 each new limited partnership.

11 (f) Disposition of partnership interests.--Unless otherwise
12 provided in the plan, the partnership interests and other
13 securities or obligations, if any, of each new limited
14 partnership resulting from the division shall be distributable
15 to:

16 (1) the surviving limited partnership if the dividing
17 limited partnership survives the division; or

18 (2) the partners of the dividing limited partnership in
19 the proportions in which the partners share in distributions,
20 in any other case.

21 (g) Conflict of laws.--It is the intent of the General
22 Assembly that:

23 (1) The effect of a division of a domestic limited
24 partnership shall be governed solely by the laws of this
25 Commonwealth and any other jurisdiction under the laws of
26 which any of the resulting limited partnerships is organized.

27 (2) The effect of a division on the assets and
28 liabilities of the dividing limited partnership shall be
29 governed solely by the laws of this Commonwealth and any
30 other jurisdiction under the laws of which any of the

1 resulting limited partnerships is organized.

2 (3) The validity of any allocations of assets or
3 liabilities by a plan of division of a domestic limited
4 partnership, regardless of whether or not any of the new
5 limited partnerships is a foreign limited partnership, shall
6 be governed solely by the laws of this Commonwealth.

7 (4) In addition to the express provisions of this
8 subsection, this subchapter shall otherwise generally be
9 granted the protection of full faith and credit under the
10 Constitution of the United States.

11 SUBCHAPTER K

12 FOREIGN LIMITED PARTNERSHIPS

13 Sec.

14 8581. Governing law.

15 8582. Registration.

16 8583. Effect of filing.

17 8584. Name.

18 8585. Changes and amendments.

19 8586. Cancellation of registration.

20 8587. Doing business without registration.

21 8588. Action by Attorney General.

22 8589. General powers and duties of qualified foreign limited
23 partnerships.

24 8590. Domestication.

25 § 8581. Governing law.

26 Subject to the Constitution of Pennsylvania:

27 (1) The laws of the jurisdiction under which a foreign
28 limited partnership is organized govern its organization and
29 internal affairs and the liability of its limited partners.

30 (2) A foreign limited partnership may not be denied

1 registration by reason of any difference between those laws
2 and the laws of this Commonwealth.

3 § 8582. Registration.

4 (a) General rule.--Before doing business in this
5 Commonwealth, a foreign limited partnership shall register under
6 this subchapter. In order to register, a foreign limited
7 partnership shall execute and file in the Department of State an
8 application for registration as a foreign limited partnership
9 setting forth:

10 (1) The name of the foreign limited partnership and, if
11 different, the name under which it proposes to register and
12 do business in this Commonwealth.

13 (2) The jurisdiction and date of its formation.

14 (3) Subject to section 109 (relating to name of
15 commercial registered office provider in lieu of registered
16 address), the address, including street and number, if any,
17 of its registered office.

18 (4) The address of the office required to be maintained
19 in the jurisdiction of its organization by the laws of that
20 jurisdiction or, if not so required, of the principal office
21 of the foreign limited partnership.

22 (5) The name and business address of each general
23 partner.

24 (6) The address of the office at which is kept a list of
25 the names and addresses of the limited partners and their
26 capital contributions, together with an undertaking by the
27 foreign limited partnership to keep those records until the
28 registration of the foreign limited partnership in this
29 Commonwealth is canceled or withdrawn.

30 (b) Exceptions.--None of the activities described in section

1 4122 (relating to excluded activities) shall be considered doing
2 business in this Commonwealth for the purposes of this
3 subchapter.

4 (c) Cross references.--See sections 134 (relating to
5 docketing statement) and 8514 (relating to execution of
6 certificates).

7 § 8583. Effect of filing.

8 Upon the filing of the application for registration as a
9 foreign limited partnership, the partnership shall be authorized
10 to do business in this Commonwealth.

11 § 8584. Name.

12 (a) General rule.--A foreign limited partnership may
13 register with the Department of State under any name (whether or
14 not it is the name under which it is registered in its
15 jurisdiction of organization) that could be used by a domestic
16 limited partnership.

17 (b) Cross reference.--See section 8505 (relating to name).

18 § 8585. Changes and amendments.

19 (a) General rule.--If any arrangements or other facts
20 described in the application for registration of a foreign
21 limited partnership have changed, making the application
22 inaccurate in any material respect, the foreign limited
23 partnership shall promptly execute and file in the Department of
24 State a certificate of amendment of registration setting forth:

25 (1) The name under which the foreign limited partnership
26 is registered to do business in this Commonwealth.

27 (2) Subject to section 109 (relating to name of
28 commercial registered office provider in lieu of registered
29 address), the address, including street and number, if any,
30 of its registered office in this Commonwealth.

1 (3) The arrangements or other facts that have changed.

2 (b) Effect of filing.--The application for registration as a
3 foreign limited partnership shall be amended upon filing of the
4 certificate of amendment of registration in the department.

5 (c) Cross references.--See sections 134 (relating to
6 docketing statement), 138 (relating to statement of correction)
7 and 8514 (relating to execution of certificates).

8 § 8586. Cancellation of registration.

9 (a) General rule.--A qualified foreign limited partnership
10 may cancel its registration by executing and filing in the
11 Department of State a certificate of cancellation of
12 registration setting forth:

13 (1) The name under which the foreign limited partnership
14 is registered to do business in this Commonwealth.

15 (2) Subject to section 109 (relating to name of
16 commercial registered office provider in lieu of registered
17 address), the address, including street and number, if any,
18 of its last registered office in this Commonwealth.

19 (3) The name of the jurisdiction under the laws of which
20 it is organized.

21 (4) The date on which it registered to do business in
22 this Commonwealth.

23 (5) A statement that it withdraws from doing business in
24 this Commonwealth.

25 (6) A statement that notice of its intention to withdraw
26 from doing business in this Commonwealth was mailed by
27 certified or registered mail to each municipal corporation in
28 which the registered office or principal place of business of
29 the foreign limited partnership in this Commonwealth is
30 located.

1 (7) The post office address, including street and
2 number, if any, to which process may be sent in an action
3 upon any liability incurred before the filing of the
4 certificate of cancellation of registration.

5 (b) Filing.--The certificate of cancellation of registration
6 and the certificates or statement required by section 139
7 (relating to tax clearance of certain fundamental transactions)
8 shall be filed in the department.

9 (c) Effect of filing.--Upon the filing of the certificate of
10 cancellation of registration, the authority of the foreign
11 limited partnership to do business in this Commonwealth shall
12 cease. The termination of authority shall not affect any action
13 pending at the time thereof or affect any right of action
14 arising with respect to the foreign limited partnership before
15 the filing of the certificate of cancellation of registration.
16 Process against the foreign limited partnership in an action
17 upon any liability incurred before the filing of the certificate
18 of cancellation of registration may be served as provided in 42
19 Pa.C.S. Ch. 53 (relating to bases of jurisdiction and interstate
20 and international procedure) or as otherwise provided or
21 prescribed by law.

22 (d) Cross references.--See sections 134 (relating to
23 docketing statement) and 8514 (relating to execution of
24 certificates).

25 § 8587. Doing business without registration.

26 (a) Maintenance of actions or proceedings prohibited.--A
27 nonqualified foreign limited partnership doing business in this
28 Commonwealth may not maintain any action or proceeding in any
29 court of this Commonwealth until it has registered under this
30 subchapter, nor, except as provided in subsection (b), shall any

1 action or proceeding be maintained in any court of this
2 Commonwealth on any right, claim or demand arising out of the
3 doing of business by the foreign limited partnership in this
4 Commonwealth by any successor, assignee or acquiror of all or
5 substantially all of the assets of the foreign limited
6 partnership that is a foreign corporation for profit or not-for-
7 profit or a foreign limited partnership until such foreign
8 corporation or foreign limited partnership has been authorized
9 to do business in this Commonwealth.

10 (b) Contracts, property and defense of actions unaffected.--
11 The failure of a foreign limited partnership to register under
12 this subchapter shall not impair the validity of any contract or
13 act of the foreign limited partnership, shall not prevent the
14 foreign limited partnership from defending any action in any
15 court of this Commonwealth and shall not render escheatable any
16 of its real or personal property.

17 (c) Liability of limited partner.--A limited partner of a
18 foreign limited partnership is not liable as a general partner
19 of the foreign limited partnership solely by reason of the
20 foreign limited partnership having done business in this
21 Commonwealth without registration under this subchapter.

22 (d) Acquisition of real and personal property.--Every
23 nonqualified foreign limited partnership may acquire, hold,
24 mortgage, lease and transfer real and personal property in this
25 Commonwealth in the same manner and subject to the same
26 limitations as a qualified foreign limited partnership.

27 (e) Duties.--Except as provided in subsection (a), a
28 nonqualified foreign limited partnership doing business in this
29 Commonwealth shall be subject to the same liabilities,
30 restrictions, duties and penalties now or hereafter imposed upon

1 a qualified foreign limited partnership.

2 § 8588. Action by Attorney General.

3 The Attorney General may bring an action to restrain a
4 foreign limited partnership from doing business in this
5 Commonwealth in violation of this subchapter.

6 § 8589. General powers and duties of qualified foreign limited
7 partnerships.

8 (a) General rule.--A qualified foreign limited partnership,
9 so long as its registration under this subchapter is not
10 canceled or revoked, shall enjoy the same rights and privileges
11 as a domestic limited partnership, but no more, and, except as
12 in this part otherwise provided, shall be subject to the same
13 liabilities, restrictions, duties and penalties now in force or
14 hereafter imposed upon domestic limited partnerships, to the
15 same extent as if it had been formed under this chapter.

16 (b) Agricultural lands.--Interests in agricultural land
17 shall be subject to the restrictions of, and escheatable as
18 provided by, the act of April 6, 1980 (P.L.102, No.39), referred
19 to as the Agricultural Land Acquisition by Aliens Law.

20 § 8590. Domestication.

21 (a) General rule.--Any qualified foreign limited partnership
22 may become a domestic limited partnership by filing in the
23 Department of State a certificate of domestication. The
24 certificate of domestication, upon being filed in the
25 department, shall constitute the certificate of limited
26 partnership of the domesticated foreign limited partnership, and
27 it shall thereafter continue as a limited partnership which
28 shall be a domestic limited partnership subject to this chapter.

29 (b) Certificate of domestication.--The certificate of
30 domestication shall be executed by the limited partnership and

1 shall set forth in the English language:

2 (1) The name of the limited partnership. If the name is
3 in a foreign language, it shall be set forth in Roman letters
4 or characters or Arabic or Roman numerals. If the name is one
5 that is rendered unavailable for use by any provision of
6 section 8505 (relating to name), the limited partnership
7 shall adopt, in accordance with any procedures for changing
8 the name of the limited partnership that are applicable prior
9 to the domestication of the limited partnership, and shall
10 set forth in the certificate of domestication an available
11 name.

12 (2) Subject to section 109 (relating to name of
13 commercial registered office provider in lieu of registered
14 address), the address, including street and number, if any,
15 of its registered office in this Commonwealth.

16 (3) A statement that upon domestication the limited
17 partnership will be subject to the domestic limited
18 partnership provisions of the Pennsylvania Revised Uniform
19 Limited Partnership Act and, if desired, a brief statement of
20 the purpose or purposes for which it is to be domesticated,
21 which shall be a purpose or purposes for which a domestic
22 limited partnership may be organized under this chapter and
23 which may consist of or include a statement that the limited
24 partnership shall have unlimited power to engage in and to do
25 any lawful act concerning any or all lawful business for
26 which limited partnerships may be organized under the
27 Pennsylvania Revised Uniform Limited Partnership Act.

28 (4) Any desired provisions relating to the manner and
29 basis of reclassifying the partnership interests in the
30 limited partnership.

1 (5) A statement that the filing of the certificate of
2 domestication and, if desired, the renunciation of the
3 original certificate of limited partnership of the limited
4 partnership has been authorized (unless its certificate of
5 limited partnership or other organic documents require a
6 greater vote) by a majority of the votes cast by all partners
7 entitled to vote thereon and, if any class of partners is
8 entitled to vote thereon as a class, a majority of the votes
9 cast in each class vote.

10 (6) Any other provisions authorized by this chapter to
11 be set forth in an original certificate of limited
12 partnership.

13 See sections 134 (relating to docketing statement), 135
14 (relating to requirements to be met by filed documents) and 8514
15 (relating to execution of certificates).

16 (c) Effect of domestication.--

17 (1) As a domestic limited partnership, the domesticated
18 limited partnership shall no longer be a foreign limited
19 partnership for the purposes of this chapter and shall
20 instead be a domestic limited partnership with all the powers
21 and privileges and all the duties and limitations granted and
22 imposed upon domestic limited partnerships. In all other
23 respects, the domesticated limited partnership shall be
24 deemed to be the same limited partnership as it was prior to
25 the domestication without any change in or effect on its
26 existence. Without limiting the generality of the previous
27 sentence, the domestication shall not be deemed to have
28 dissolved the limited partnership or to have affected in any
29 way:

30 (i) the right and title of the limited partnership

1 in and to its assets, property, franchises, estates and
2 choses in action;

3 (ii) the liability of the limited partnership for
4 its debts, obligations, penalties and public accounts due
5 the Commonwealth;

6 (iii) any liens or other encumbrances on the
7 property or assets of the limited partnership; or

8 (iv) any contract, license or other agreement to
9 which the limited partnership is a party or under which
10 it has any rights or obligations.

11 (2) The partnership interests in the domesticated
12 limited partnership shall be unaffected by the domestication
13 except to the extent, if any, reclassified in the certificate
14 of domestication.]

15 Section 54. The definitions of "certificate of
16 organization," "foreign limited liability company" and
17 "qualified foreign limited liability company" in section 8903(a)
18 of Title 15 are amended to read:

19 § 8903. Definitions and index of definitions.

20 (a) Definitions.--The following words and phrases when used
21 in this chapter shall have the meanings given to them in this
22 section unless the context clearly indicates otherwise:

23 "Certificate of organization." The certificate of
24 organization referred to in section 8913 (relating to
25 certificate of organization) and the certificate of organization
26 as amended. The term includes any other statements or
27 certificates permitted or required to be filed in the Department
28 of State by sections 108 (relating to change in location or
29 status of registered office provided by agent) and 138 (relating
30 to statement of correction), Chapter 3 (relating to entity

1 transactions) or this part. If an amendment of the certificate
2 of organization or a [certificate of merger or division made in
3 the manner permitted by this chapter] statement filed under
4 Chapter 3 restates the certificate of organization in its
5 entirety [or if there is a certificate of consolidation or
6 domestication], thenceforth the certificate of organization
7 shall not include any prior documents, and any certificate
8 issued by the Department of State with respect thereto shall so
9 state.

10 * * *

11 "Foreign limited liability company." An association
12 organized under the laws of any jurisdiction other than this
13 Commonwealth, whether or not required to register under
14 [Subchapter J (relating to foreign companies)] Chapter 4
15 (relating to foreign associations), which would be a limited
16 liability company if organized under the laws of this
17 Commonwealth.

18 * * *

19 "Qualified foreign limited liability company." A foreign
20 limited liability company that is registered under [Subchapter J
21 (relating to foreign companies) to do business in this
22 Commonwealth] Chapter 4 (relating to foreign associations).

23 * * *

24 Section 55. Sections 8905 and 8908 and Subchapters G and H
25 of Chapter 89 and section 8978 and Subchapter J of Chapter 89 of
26 Title 15 are repealed:

27 [§ 8905. Name.

28 (a) General rule.--The name of each limited liability
29 company as set forth in its certificate of organization shall:

30 (1) Be expressed in Roman letters or characters or

1 Arabic or Roman numerals.

2 (2) Not be one rendered unavailable for use by a
3 corporation by any provision of section 1303(b) and (c)
4 (relating to corporate name).

5 (3) Contain the term "company," "limited" or "limited
6 liability company" or an abbreviation of one of those terms.

7 (b) Reservation of name.--The exclusive right to the use of
8 a name for purposes of this chapter may be reserved and
9 transferred in the manner provided by section 1305 (relating to
10 reservation of corporate name).

11 § 8908. Election of professional association to become limited
12 liability company.

13 (a) General rule.--This chapter applies to every
14 professional association subject to Chapter 93 (relating to
15 professional associations) that elects to accept the provisions
16 of this chapter in the manner set forth in subsection (b).

17 (b) Procedure for election.--A professional association may
18 elect to accept this chapter by filing in the Department of
19 State a certificate of election of limited liability company
20 status which shall be executed by all of the associates of the
21 professional association and shall set forth:

22 (1) The name of the professional association.

23 (2) The name of the county in the office of the
24 prothonotary of which the initial articles of association of
25 the association were filed.

26 (3) A statement that the associates of the professional
27 association have elected to accept the provisions of this
28 chapter for the government and regulation of the affairs of
29 the association.

30 (4) The provisions that shall constitute the initial

1 certificate of organization of the limited liability company
2 resulting from the filing, which may include such amendments
3 to the articles of association of the professional
4 association as the associates may choose to adopt.

5 See sections 134 (relating to docketing statement) and 135
6 (relating to requirements to be met by filed documents).

7 (c) Date of organization.--This chapter shall become
8 applicable to the professional association, and it shall be
9 deemed organized as a limited liability company, on the date the
10 certificate of election is filed in the department.

11 SUBCHAPTER G

12 MERGERS AND CONSOLIDATIONS

13 Sec.

14 8956. Merger and consolidation of limited liability companies
15 authorized.

16 8957. Approval of merger or consolidation.

17 8958. Certificate of merger or consolidation.

18 8959. Effect of merger or consolidation.

19 § 8956. Merger and consolidation of limited liability companies
20 authorized.

21 (a) Domestic surviving or new limited liability company.--
22 Any two or more domestic limited liability companies, or any two
23 or more foreign limited liability companies, or any one or more
24 domestic limited liability companies and any one or more foreign
25 limited liability companies, may, in the manner provided in this
26 subchapter, be merged into one of the domestic limited liability
27 companies designated in this subchapter as the surviving limited
28 liability company, or consolidated into a new limited liability
29 company to be formed under this chapter, if the foreign limited
30 liability companies are authorized by the laws of the

1 jurisdiction under which they are organized to effect a merger
2 or consolidation with a limited liability company of another
3 jurisdiction.

4 (b) Foreign surviving or new limited liability company.--Any
5 one or more domestic limited liability companies and any one or
6 more foreign limited liability companies may, in the manner
7 provided in this subchapter, be merged into one of the foreign
8 limited liability companies designated in this subchapter as the
9 surviving limited liability company, or consolidated into a new
10 limited liability company to be organized under the laws of the
11 jurisdiction under which one of the foreign limited liability
12 companies is organized, if the laws of that jurisdiction
13 authorize a merger with or consolidation into a limited
14 liability company of another jurisdiction.

15 (c) Business trusts and other associations.--The provisions
16 of this subchapter applicable to domestic and foreign limited
17 liability companies shall also be applicable to a merger or
18 consolidation to which a domestic limited liability company is a
19 party or in which such a company is the resulting entity with or
20 into a domestic or foreign corporation, partnership, business
21 trust or other association. The surviving or resulting entity in
22 such a merger or consolidation may be a corporation,
23 partnership, business trust or other association. Except as
24 otherwise provided by law in this Commonwealth or any other
25 jurisdiction, the powers and duties vested in and imposed upon
26 the managers and members in this subchapter shall be exercised
27 and performed by the group of persons under the direction of
28 whom the business and affairs of the corporation, partnership,
29 business trust or other association are managed and the holders
30 or owners of shares or other interests in the corporation,

1 partnership, business trust or other association, respectively,
2 irrespective of the names by which the managing group and the
3 holders or owners of shares or other interests are designated.
4 The units into which the shares or other interests in the
5 corporation, partnership, business trust or other association
6 are divided shall be deemed to be membership interests for the
7 purposes of applying the provisions of this subchapter to a
8 merger or consolidation involving the corporation, partnership,
9 business trust or other association.

10 § 8957. Approval of merger or consolidation.

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

14 (1) The terms and conditions of the merger or
15 consolidation.

16 (2) If the surviving or new limited liability company is
17 or is to be a domestic limited liability company:

18 (i) in the case of a merger, any changes desired to
19 be made in the certificate of organization or operating
20 agreement, which may include a restatement of either or
21 both; or

22 (ii) in the case of a consolidation:

23 (A) all of the statements required by this
24 chapter to be set forth in a restated certificate of
25 organization; and

26 (B) the written provisions, if any, of the
27 operating agreement.

28 (3) The manner and basis of converting the membership
29 interests of each company into membership interests,
30 securities or obligations of the surviving or new company, as

1 the case may be, and, if any of the membership interests of
2 any of the companies that are parties to the merger or
3 consolidation are not to be converted solely into membership
4 interests, securities or obligations of the surviving or new
5 company, the membership interests, securities or obligations
6 of any other person or cash, property or rights that the
7 holders of such membership interests are to receive in
8 exchange for, or upon conversion of, such membership
9 interests, and the surrender of any certificates evidencing
10 them, which securities or obligations, if any, of any other
11 person or cash, property or rights may be in addition to or
12 in lieu of the membership interests, securities or
13 obligations of the surviving or new company.

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

15 (b) Reference to outside facts.--Any of the terms of the
16 plan may be made dependent upon facts ascertainable outside of
17 the plan if the manner in which the facts will operate upon the
18 terms of the plan is set forth in the plan. Such facts may
19 include, without limitation, actions or events within the
20 control of or determinations made by a party to the plan or a
21 representative of a party to the plan.

22 (c) Post-adoption amendment of plan of merger or
23 consolidation.--A plan of merger or consolidation may contain a
24 provision that the managers, if any, of the constituent
25 companies may amend the plan at any time prior to its effective
26 date, except that an amendment made subsequent to any adoption
27 of the plan by the members of any constituent domestic company
28 shall not, without the approval of the members, change:

29 (1) The amount or kind of membership interests,
30 obligations, cash, property or rights to be received in

1 exchange for or on conversion of all or any of the membership
2 interests of the constituent domestic company adversely to
3 the holders of those membership interests.

4 (2) Any provision of the certificate of organization or
5 operating agreement of the surviving or new company as it is
6 to be in effect immediately following consummation of the
7 merger or consolidation except provisions that may be amended
8 without the approval of the members.

9 (3) Any of the other terms and conditions of the plan if
10 the change would adversely affect the holders of any
11 membership interests of the constituent domestic company.

12 (d) Proposal of merger or consolidation.--Every merger or
13 consolidation shall be proposed, in the case of each domestic
14 limited liability company that is managed by one or more
15 managers, by the adoption by the managers of a resolution
16 approving the plan of merger or consolidation and, in any other
17 case, in accordance with any applicable procedures specified in
18 the operating agreement. Except where the approval of the
19 members is unnecessary under this subchapter or the operating
20 agreement, the plan shall be submitted to a vote of the members
21 entitled to vote thereon at a regular or special meeting of the
22 members.

23 (e) Party to plan.--An association that approves a plan in
24 its capacity as a member or creditor of a merging or
25 consolidating company or that furnishes all or a part of the
26 consideration contemplated by a plan does not thereby become a
27 party to the merger or consolidation for the purposes of this
28 subchapter.

29 (f) Notice of meeting of members.--Written notice of the
30 meeting of members that will act on the proposed plan shall be

1 given to each member of record, whether or not entitled to vote
2 thereon, of each domestic limited liability company that is a
3 party to the merger or consolidation. There shall be included in
4 or enclosed with the notice a copy of the proposed plan or a
5 summary thereof. The provisions of this subsection may not be
6 relaxed by any provision of the certificate of organization or
7 operating agreement.

8 (g) Adoption of plan by members.--The plan of merger or
9 consolidation shall be adopted upon receiving a majority of the
10 votes cast by all members, if any, entitled to vote thereon of
11 each of the domestic limited liability companies that is a party
12 to the merger or consolidation and, if any class of members is
13 entitled to vote thereon as a class, a majority of the votes
14 cast in each class vote. A proposed plan of merger or
15 consolidation shall not be deemed to have been adopted by a
16 company that is managed by one or more managers unless it has
17 also been approved by the managers, regardless of the fact that
18 the managers have directed or suffered the submission of the
19 plan to the members for action.

20 (h) Adoption by managers.--

21 (1) Unless otherwise required by a written provision of
22 the operating agreement, a plan of merger or consolidation
23 shall not require the approval of the members of a company
24 that is managed by one or more managers if:

25 (i) the plan, whether or not the company is the
26 surviving company, does not alter the status of the
27 company as a domestic limited liability company or alter
28 in any respect the provisions of its certificate of
29 organization or operating agreement, except changes that
30 may be made without action by the members; and

1 (ii) each membership interest outstanding
2 immediately prior to the effective date of the merger or
3 consolidation is to continue as or to be converted into,
4 except as may be otherwise agreed by the holder thereof,
5 an identical membership interest in the surviving or new
6 company after the effective date of the merger or
7 consolidation.

8 (2) If a merger or consolidation is effected pursuant to
9 paragraph (1), the plan of merger or consolidation shall be
10 deemed adopted by the company when it has been adopted by the
11 managers pursuant to subsection (d).

12 (i) Termination of plan.--Prior to the time when a merger or
13 consolidation becomes effective, the merger or consolidation may
14 be terminated pursuant to provisions therefor, if any, set forth
15 in the plan. If a certificate of merger or consolidation has
16 been filed in the department prior to the termination, a
17 certificate of termination executed by each company that is a
18 party to the merger or consolidation, unless the plan permits
19 termination by less than all of the companies, in which case the
20 certificate shall be executed on behalf of the company
21 exercising the right to terminate, shall be filed in the
22 department. The certificate of termination shall set forth:

23 (1) A copy of the certificate of merger or consolidation
24 relating to the plan that is terminated.

25 (2) A statement that the plan has been terminated in
26 accordance with the provisions therefor set forth therein.

27 See sections 134 (relating to docketing statement), 135
28 (relating to requirements to be met by filed documents), 138
29 (relating to statement of correction) and 8907 (relating to
30 execution of documents).

1 (j) Authorization by foreign limited liability companies.--
2 The plan of merger or consolidation shall be authorized, adopted
3 or approved by each foreign limited liability company that
4 desires to merge or consolidate in accordance with the laws of
5 the jurisdiction in which it is organized.

6 § 8958. Certificate of merger or consolidation.

7 (a) General rule.--Upon the adoption of the plan of merger
8 or consolidation by the limited liability companies desiring to
9 merge or consolidate, as provided in this subchapter, a
10 certificate of merger or a certificate of consolidation, as the
11 case may be, shall be executed by each company and shall,
12 subject to section 109 (relating to name of commercial
13 registered office provider in lieu of registered address), set
14 forth:

15 (1) The name and the location of the registered office,
16 including street and number, if any, of the domestic
17 surviving or new limited liability company or, in the case of
18 a foreign surviving or new limited liability company, the
19 name of the company and its jurisdiction of organization,
20 together with either of the following:

21 (i) If a qualified foreign limited liability
22 company, the address, including street and number, if
23 any, of its registered office in this Commonwealth.

24 (ii) If a nonqualified foreign limited liability
25 company, the address, including street and number, if
26 any, of its principal office under the laws of the
27 jurisdiction in which it is organized.

28 (2) The name and address, including street and number,
29 if any, of the registered office of each other domestic
30 limited liability company and qualified foreign limited

1 liability company that is a party to the merger or
2 consolidation.

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

6 (4) The manner in which the plan was adopted by each
7 domestic limited liability company and, if one or more
8 foreign limited liability companies are parties to the merger
9 or consolidation, the fact that the plan was authorized,
10 adopted or approved, as the case may be, by each of the
11 foreign limited liability companies in accordance with the
12 laws of the jurisdiction in which it is organized.

13 (5) Except as provided in subsection (b), the plan of
14 merger or consolidation.

15 (b) Omission of certain provisions of plan of merger or
16 consolidation.--A certificate of merger or consolidation may
17 omit all provisions of the plan of merger or consolidation
18 except provisions, if any, that are intended to amend or
19 constitute the operative provisions of the certificate of
20 organization of a company as in effect subsequent to the
21 effective date of the plan, if the certificate of merger or
22 consolidation states that the full text of the plan is on file
23 at the principal place of business of the surviving or new
24 company and states the address thereof. A company that takes
25 advantage of this subsection shall furnish a copy of the full
26 text of the plan, on request and without cost, to any member of
27 any company that was a party to the plan and, unless all parties
28 to the plan had fewer than 30 members each, on request and at
29 cost to any other person.

30 (c) Filing of certificate of merger or consolidation.--The

1 certificate of merger or certificate of consolidation, as the
2 case may be, and the certificates or statement, if any, required
3 by section 139 (relating to tax clearance of certain fundamental
4 transactions) shall be filed in the department.

5 (d) Effective date of merger or consolidation.--Upon the
6 filing of the certificate of merger or the certificate of
7 consolidation in the Department of State or upon the effective
8 date specified in the plan of merger or consolidation, whichever
9 is later, the merger or consolidation shall be effective. The
10 merger or consolidation of one or more domestic limited
11 liability companies into a foreign limited liability company
12 shall be effective according to the provisions of law of the
13 jurisdiction in which the foreign limited liability company is
14 organized, but not until a certificate of merger or certificate
15 of consolidation has been adopted and filed, as provided in this
16 subchapter.

17 (e) Cross references.--See sections 134 (relating to
18 docketing statement), 135 (relating to requirements to be met by
19 filed documents) and 8907 (relating to execution of documents).
20 § 8959. Effect of merger or consolidation.

21 (a) Single surviving or new limited liability company.--Upon
22 the merger or consolidation becoming effective, the several
23 limited liability companies parties to the merger or
24 consolidation shall be a single company which, in the case of a
25 merger, shall be the company designated in the plan of merger as
26 the surviving company and, in the case of a consolidation, shall
27 be the new company provided for in the plan of consolidation.
28 The separate existence of all companies parties to the merger or
29 consolidation shall cease, except that of the surviving company,
30 in the case of a merger.

1 (b) Property rights.--All the property, real, personal and
2 mixed, of each of the companies parties to the merger or
3 consolidation and all debts due on whatever account to any of
4 them, as well as all other things and causes of action belonging
5 to any of them, shall be deemed to be vested in and shall belong
6 to the surviving or new company, as the case may be, without
7 further action, and the title to any real estate or any interest
8 therein vested in any of the companies shall not revert or be in
9 any way impaired by reason of the merger or consolidation. The
10 surviving or new company shall thenceforth be responsible for
11 all the liabilities of each of the companies so merged or
12 consolidated. Liens upon the property of the merging or
13 consolidating companies shall not be impaired by the merger or
14 consolidation, and any claim existing or action or proceeding
15 pending by or against any of the companies may be prosecuted to
16 judgment as if the merger or consolidation had not taken place
17 or the surviving or new company may be proceeded against or
18 substituted in its place.

19 (c) Taxes.--Any taxes, interest, penalties and public
20 accounts of the Commonwealth claimed against any of the merging
21 or consolidating companies that are settled, assessed or
22 determined prior to or after the merger or consolidation shall
23 be the liability of the surviving or new company and, together
24 with interest thereon, shall be a lien against the property,
25 both real and personal, of the surviving or new company.

26 (d) Certificate of organization.--In the case of a merger,
27 the certificate of organization of the surviving domestic
28 limited liability company, if any, shall be deemed to be amended
29 to the extent, if any, that changes in its certificate of
30 organization are stated in the plan of merger. In the case of a

1 consolidation into a domestic limited liability company, the
2 statements that are set forth in the plan of consolidation or
3 certificate of organization set forth therein shall be deemed to
4 be the certificate of organization of the new limited liability
5 company.

6 SUBCHAPTER H

7 DIVISION

8 Sec.

9 8961. Division authorized.

10 8962. Proposal and adoption of plan of division.

11 8963. Division without member approval.

12 8964. Certificate of division.

13 8965. Effect of division.

14 § 8961. Division authorized.

15 (a) Division of domestic company.--Any domestic limited
16 liability company may, in the manner provided in this
17 subchapter, be divided into two or more domestic limited
18 liability companies organized or to be organized under this
19 chapter, or into one or more domestic limited liability
20 companies and one or more foreign limited liability companies to
21 be organized under the laws of another jurisdiction or
22 jurisdictions, or into two or more foreign limited liability
23 companies, if the laws of the other jurisdictions authorize the
24 division.

25 (b) Division of foreign company.--Any foreign limited
26 liability company may, in the manner provided in this
27 subchapter, be divided into one or more domestic limited
28 liability companies to be organized under this chapter and one
29 or more foreign limited liability companies organized or to be
30 organized under the laws of another jurisdiction or

1 jurisdictions, or into two or more domestic limited liability
2 companies, if the foreign limited liability company is
3 authorized under the laws of the jurisdiction under which it is
4 incorporated to effect a division.

5 (c) Surviving and new companies.--The company effecting a
6 division, if it survives the division, is designated in this
7 subchapter as the surviving company. All companies originally
8 organized by a division are designated in this subchapter as new
9 companies. The surviving company, if any, and the new company or
10 companies are collectively designated in this subchapter as the
11 resulting companies.

12 § 8962. Proposal and adoption of plan of division.

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

15 (1) The terms and conditions of the division, including
16 the manner and basis of:

17 (i) The reclassification of the membership interests
18 of the surviving company, if there be one, and, if any of
19 the membership interests of the dividing company are not
20 to be converted solely into membership interests or other
21 securities or obligations of one or more of the resulting
22 companies, the membership interests or other securities
23 or obligations of any other person or cash, property or
24 rights that the holders of such membership interests are
25 to receive in exchange for or upon conversion of such
26 membership interests, and the surrender of any
27 certificates evidencing them, which securities or
28 obligations, if any, of any other person or cash,
29 property or rights may be in addition to or in lieu of
30 membership interests or other securities or obligations

1 of one or more of the resulting companies.

2 (ii) The disposition of the membership interests and
3 other securities or obligations, if any, of the new
4 company or companies resulting from the division.

5 (2) A statement that the dividing company will or will
6 not survive the division.

7 (3) Any changes desired to be made in the certificate of
8 organization of the surviving company, if there be one,
9 including a restatement of the certificate.

10 (4) The certificates of organization required by
11 subsection (c).

12 (5) Such other provisions as are deemed desirable.

13 (b) Reference to outside facts.--Any of the terms of the
14 plan may be made dependent upon facts ascertainable outside of
15 the plan if the manner in which the facts will operate upon the
16 terms of the plan is set forth in the plan. Such facts may
17 include, without limitation, actions or events within the
18 control of or determinations made by the dividing limited
19 liability company or a representative of the dividing limited
20 liability company.

21 (c) Certificates of organization of new companies.--There
22 shall be included in or annexed to the plan of division:

23 (1) Certificates of organization, which shall contain
24 all of the statements required by this chapter to be set
25 forth in a restated certificate, for each of the new domestic
26 limited liability companies, if any, resulting from the
27 division.

28 (2) Certificates of organization or other organizational
29 documents for each of the new foreign limited liability
30 companies, if any, resulting from the division.

1 (d) Proposal and adoption.--Except as otherwise provided in
2 section 8963 (relating to division without member approval), the
3 plan of division shall be proposed and adopted and may be
4 amended after its adoption and terminated by a domestic limited
5 liability company in the manner provided for the proposal,
6 adoption, amendment and termination of a plan of merger in
7 Subchapter G (relating to mergers and consolidations) or, if the
8 dividing company is a foreign limited liability company, in
9 accordance with the laws of the jurisdiction in which it is
10 organized.

11 § 8963. Division without member approval.

12 Unless otherwise required by a written provision of the
13 operating agreement, a plan of division that does not alter the
14 state of organization of a limited liability company that is
15 managed by one or more managers nor amend in any respect the
16 provisions of its certificate of organization or operating
17 agreement (except amendments which may be made without action by
18 the members) shall not require the approval of the members of
19 the company if:

20 (1) the dividing company has only one class of
21 membership interests outstanding and the membership interests
22 and other securities, if any, of each company resulting from
23 the plan are distributed pro rata to the members of the
24 dividing company;

25 (2) the dividing company survives the division and all
26 the membership interests and other securities and
27 obligations, if any, of all new companies resulting from the
28 plan are owned solely by the surviving company; or

29 (3) the transfers of assets effected by the division, if
30 effected by means of a sale, lease, exchange or other

1 disposition, would not require the approval of the members.

2 § 8964. Certificate of division.

3 (a) Contents.--Upon the adoption of a plan of division by
4 the limited liability company desiring to divide, as provided in
5 this subchapter, a certificate of division shall be executed by
6 the company and shall, subject to section 109 (relating to name
7 of commercial registered office provider in lieu of registered
8 address), set forth:

9 (1) The name and the location of the registered office,
10 including street and number, if any, of the dividing domestic
11 limited liability company or, in the case of a dividing
12 foreign limited liability company, the name of the company
13 and the jurisdiction in which it is organized, together with
14 either:

15 (i) If a qualified foreign limited liability
16 company, the address, including street and number, if
17 any, of its registered office in this Commonwealth.

18 (ii) If a nonqualified foreign limited liability
19 company, the address, including street and number, if
20 any, of its principal office under the laws of that
21 jurisdiction.

22 (2) The statute under which the dividing company was
23 organized and the date of organization.

24 (3) A statement that the dividing company will or will
25 not survive the division.

26 (4) The name and address, including street and number,
27 if any, of the registered office of each new domestic limited
28 liability company or qualified foreign limited liability
29 company resulting from the division.

30 (5) If the plan is to be effective on a specific date,

1 the hour, if any, and the month, day and year of the
2 effective date.

3 (6) The manner in which the plan was adopted by the
4 company.

5 (7) The plan of division.

6 (b) Filing.--The certificate of division and the
7 certificates or statement, if any, required by section 139
8 (relating to tax clearance of certain fundamental transactions)
9 shall be filed in the Department of State.

10 (c) Effective date of division.--Upon the filing of the
11 certificate of division in the Department of State or upon the
12 effective date specified in the plan of division, whichever is
13 later, the division shall become effective. The division of a
14 domestic limited liability company into one or more foreign
15 limited liability companies or the division of a foreign limited
16 liability company shall be effective according to the laws of
17 the jurisdictions where the foreign companies are or are to be
18 organized but not until a certificate of division has been
19 adopted and filed as provided in this subchapter.

20 (d) Cross references.--See sections 134 (relating to
21 docketing statement), 135 (relating to requirements to be met by
22 filed documents) and 8907 (relating to execution of documents).
23 § 8965. Effect of division.

24 (a) Multiple resulting companies.--Upon the division
25 becoming effective, the dividing company shall be subdivided
26 into the distinct and independent resulting companies named in
27 the plan of division, and, if the dividing company is not to
28 survive the division, the existence of the dividing company
29 shall cease. The resulting companies, if they are domestic
30 limited liability companies, shall not thereby acquire authority

1 to engage in any business or exercise any right that a company
2 may not be organized under this chapter to engage in or
3 exercise. Any resulting foreign limited liability company that
4 is stated in the certificate of division to be a qualified
5 foreign limited liability company shall be a qualified foreign
6 limited liability company under Subchapter J (relating to
7 foreign companies), and the certificate of division shall be
8 deemed to be the application for registration of a foreign
9 limited liability company of the limited liability company.

10 (b) Property rights; allocations of assets and
11 liabilities.--

12 (1) (i) All the property, real, personal and mixed, of
13 the dividing company and all debts due on whatever
14 account to it, including subscriptions for membership
15 interests and other causes of action belonging to it,
16 shall, except as otherwise provided in paragraph (2), to
17 the extent allocations of assets are contemplated by the
18 plan of division, be deemed without further action to be
19 allocated to and vested in the resulting companies on
20 such a manner and basis and with such effect as is
21 specified in the plan, or per capita among the resulting
22 companies as tenants in common if no specification is
23 made in the plan, and the title to any real estate or
24 interest therein vested in any of the companies shall not
25 revert or be in any way impaired by reason of the
26 division.

27 (ii) Upon the division becoming effective, the
28 resulting companies shall each thenceforth be responsible
29 as separate and distinct companies only for such
30 liabilities as each company may undertake or incur in its

1 own name but shall be liable for the liabilities of the
2 dividing company in the manner and on the basis provided
3 in subparagraphs (iv) and (v).

4 (iii) Liens upon the property of the dividing
5 company shall not be impaired by the division.

6 (iv) To the extent allocations of liabilities are
7 contemplated by the plan of division, the liabilities of
8 the dividing company shall be deemed without further
9 action to be allocated to and become the liabilities of
10 the resulting companies on such a manner and basis and
11 with such effect as is specified in the plan; and one or
12 more, but less than all, of the resulting companies shall
13 be free of the liabilities of the dividing company to the
14 extent, if any, specified in the plan if in either case:

15 (A) no fraud on members or violation of law
16 shall be effected thereby; and

17 (B) the plan does not constitute a fraudulent
18 transfer under 12 Pa.C.S. Ch. 51 (relating to
19 fraudulent transfers).

20 (v) If the conditions in subparagraph (iv) for
21 freeing one or more of the resulting companies from the
22 liabilities of the dividing company, or for allocating
23 some or all of the liabilities of the dividing company,
24 are not satisfied, the liabilities of the dividing
25 company as to which those conditions are not satisfied
26 shall not be affected by the division nor shall the
27 rights of creditors thereunder or of any person dealing
28 with the company be impaired by the division, and any
29 claim existing or action or proceeding pending by or
30 against the company with respect to those liabilities may

1 be prosecuted to judgment as if the division had not
2 taken place, or the resulting companies may be proceeded
3 against or substituted in place of the dividing company
4 as joint and several obligors on those liabilities,
5 regardless of any provision of the plan of division
6 apportioning the liabilities of the dividing company.

7 (vi) The conditions in subparagraph (iv) for freeing
8 one or more of the resulting companies from the
9 liabilities of the dividing company and for allocating
10 some or all of the liabilities of the dividing company
11 shall be conclusively deemed to have been satisfied if
12 the plan of division has been approved by the
13 Pennsylvania Public Utility Commission in a final order
14 issued after August 21, 2001, that has become not subject
15 to further appeal.

16 (2) (i) The allocation of any fee or freehold interest
17 or leasehold having a remaining term of 30 years or more
18 in any tract or parcel of real property situate in this
19 Commonwealth owned by a dividing company (including
20 property owned by a foreign limited liability company
21 dividing solely under the law of another jurisdiction) to
22 a new company resulting from the division shall not be
23 effective until one of the following documents is filed
24 in the office for the recording of deeds of the county,
25 or each of them, in which the tract or parcel is
26 situated:

27 (A) A deed, lease or other instrument of
28 confirmation describing the tract or parcel.

29 (B) A duly executed duplicate original copy of
30 the certificate of division.

1 (C) A copy of the certificate of division
2 certified by the Department of State.

3 (D) A declaration of acquisition setting forth
4 the value of real estate holdings in such county of
5 the company as an acquired company.

6 (ii) The provisions of 75 Pa.C.S. § 1114 (relating
7 to transfer of vehicle by operation of law) shall not be
8 applicable to an allocation of ownership of any motor
9 vehicle, trailer or semitrailer to a new company under
10 this section or under a similar law of any other
11 jurisdiction but any such allocation shall be effective
12 only upon compliance with the requirements of 75 Pa.C.S.
13 § 1116 (relating to issuance of new certificate following
14 transfer).

15 (3) It shall not be necessary for a plan of division to
16 list each individual asset or liability of the dividing
17 company to be allocated to a new company so long as those
18 assets and liabilities are described in a reasonable and
19 customary manner.

20 (4) Each new company shall hold any assets and
21 liabilities allocated to it as the successor to the dividing
22 company, and those assets and liabilities shall not be deemed
23 to have been assigned to the new company in any manner,
24 whether directly or indirectly or by operation of law.

25 (c) Taxes.--Any taxes, interest, penalties and public
26 accounts of the Commonwealth claimed against the dividing
27 company that are settled, assessed or determined prior to or
28 after the division shall be the liability of any of the
29 resulting companies and, together with interest thereon, shall
30 be a lien against the franchises and property, both real and

1 personal, of all the companies. Upon the application of the
2 dividing company, the Department of Revenue, with the
3 concurrence of the Office of Employment Security of the
4 Department of Labor and Industry, shall release one or more, but
5 less than all, of the resulting companies from liability and
6 liens for all taxes, interest, penalties and public accounts of
7 the dividing company due the Commonwealth for periods prior to
8 the effective date of the division if those departments are
9 satisfied that the public revenues will be adequately secured.

10 (d) Certificate of organization of surviving company.--The
11 certificate of organization of the surviving company, if there
12 be one, shall be deemed to be amended to the extent, if any,
13 that changes in its certificate are stated in the plan of
14 division.

15 (e) Certificates of organization of new companies.--The
16 statements that are set forth in the plan of division with
17 respect to each new domestic limited liability company and that
18 are required or permitted to be set forth in a restated
19 certificate of organization of companies organized under this
20 chapter or the certificate of organization of each new company
21 set forth therein shall be deemed to be the certificate of
22 organization of each new company.

23 (f) Managers.--Unless otherwise provided in the plan, the
24 managers, if any, of the dividing limited liability company
25 shall be the initial managers of each of the resulting
26 companies.

27 (g) Disposition of membership interests.--Unless otherwise
28 provided in the plan, the membership interests and other
29 securities or obligations, if any, of each new company resulting
30 from the division shall be distributable to:

1 (1) the surviving company if the dividing company
2 survives the division; or

3 (2) the members of the dividing company in the
4 proportions in which the members share in distributions, in
5 any other case.

6 (h) Conflict of laws.--It is the intent of the General
7 Assembly that:

8 (1) The effect of a division of a domestic limited
9 liability company shall be governed by the laws of this
10 Commonwealth and any other jurisdiction under the laws of
11 which any of the resulting companies is organized.

12 (2) The effect of a division on the assets and
13 liabilities of the dividing company shall be governed solely
14 by the laws of this Commonwealth and any other jurisdiction
15 under the laws of which any of the resulting companies is
16 organized.

17 (3) The validity of any allocation of assets or
18 liabilities by a plan of division of a domestic limited
19 liability company, regardless of whether or not any of the
20 new companies is a foreign limited liability company, shall
21 be governed solely by the laws of this Commonwealth.

22 (4) In addition to the express provisions of this
23 subsection, this subchapter shall otherwise generally be
24 granted the protection of full faith and credit under the
25 Constitution of the United States.

26 § 8978. Dissolution by domestication.

27 Whenever a domestic limited liability company has
28 domesticated itself under the laws of another jurisdiction by
29 action similar to that provided by section 8982 (relating to
30 domestication) and has authorized that action by the vote

1 required by this subchapter for the approval of a proposal that
2 the company dissolve voluntarily, the company may surrender its
3 certificate of organization under the laws of this Commonwealth
4 by filing in the Department of State a certificate of
5 dissolution under section 8975 (relating to certificate of
6 dissolution). In lieu of the statements required by section
7 8975(a)(2) through (4), the certificate of dissolution shall set
8 forth a statement that the company has domesticated itself under
9 the laws of another jurisdiction. If the company, as
10 domesticated in the other jurisdiction, registers to do business
11 in this Commonwealth either prior to or simultaneously with the
12 filing of the certificate of dissolution under this section, the
13 company shall not be required to file with the certificate of
14 dissolution the tax clearance certificates that would otherwise
15 be required by section 139 (relating to tax clearance of certain
16 fundamental transactions).

17 SUBCHAPTER J

18 FOREIGN COMPANIES

19 Sec.

20 8981. Foreign limited liability companies.

21 8982. Domestication.

22 § 8981. Foreign limited liability companies.

23 (a) General rule.--A foreign limited liability company shall
24 be subject to Subchapter K of Chapter 85 (relating to foreign
25 limited partnerships) as if it were a foreign limited
26 partnership, except that:

27 (1) Section 8582(a)(5) and (6) (relating to
28 registration) shall not be applicable to the application for
29 registration of a foreign limited liability company.

30 (2) If the foreign limited liability company is to be a

1 qualified foreign restricted professional company, its
2 application for registration shall so state and shall also
3 contain a brief description of the professional service or
4 services to be rendered by the company.

5 (3) A qualified foreign limited liability company shall
6 enjoy the same rights and privileges as a domestic limited
7 liability company, but no more, and, except as otherwise
8 provided by law, shall be subject to the same liabilities,
9 restrictions, duties and penalties now in force or hereafter
10 imposed upon domestic limited liability companies to the same
11 extent as if it had been organized under this chapter.

12 (b) Provision applicable to all foreign limited liability
13 companies.--Section 8926 (relating to certain specifically
14 authorized debt terms) shall be applicable to any obligation, as
15 defined in section 1510 (relating to certain specifically
16 authorized debt terms), of a foreign limited liability company
17 executed or effected in this Commonwealth or affecting real
18 property situated in this Commonwealth.

19 § 8982. Domestication.

20 (a) General rule.--Any qualified foreign limited liability
21 company may become a domestic limited liability company by
22 filing in the Department of State a certificate of
23 domestication. The certificate of domestication, upon being
24 filed in the department, shall constitute the certificate of
25 organization of the domesticated company, and it shall
26 thereafter continue as a limited liability company which shall
27 be a domestic limited liability company subject to this chapter.

28 (b) Certificate of domestication.--The certificate of
29 domestication shall be executed by the company and shall set
30 forth in the English language:

1 (1) The name of the company. If the name is in a foreign
2 language, it shall be set forth in Roman letters or
3 characters or Arabic or Roman numerals. If the name is one
4 that is rendered unavailable for use by any provision of
5 section 8905 (relating to name), the company shall adopt, in
6 accordance with any procedures for changing the name of the
7 company that are applicable prior to the domestication of the
8 company, and shall set forth in the certificate of
9 domestication an available name.

10 (2) Subject to section 109 (relating to name of
11 commercial registered office provider in lieu of registered
12 address), the address, including street and number, if any,
13 of its registered office in this Commonwealth.

14 (3) A statement that upon domestication the company will
15 be subject to the domestic limited liability company
16 provisions of the Limited Liability Company Law of 1994 and,
17 if desired, a brief statement of the purpose or purposes for
18 which it is to be domesticated which shall be a purpose or
19 purposes for which a domestic limited liability company may
20 be organized under this chapter and which may consist of or
21 include a statement that the company shall have unlimited
22 power to engage in and to do any lawful act concerning any or
23 all lawful business for which companies may be organized
24 under the Limited Liability Company Law of 1994.

25 (4) Any desired provisions relating to the manner and
26 basis of reclassifying the membership interests of the
27 company.

28 (5) A statement that the filing of the certificate of
29 domestication and, if desired, the renunciation of the
30 original certificate of organization of the company has been

1 authorized, unless its certificate of organization or other
2 organic documents require a greater vote, by a majority of
3 the votes cast by all members entitled to vote thereon and,
4 if any class of members is entitled to vote thereon as a
5 class, a majority of the votes cast in each class vote.

6 (6) Any other provisions authorized or required by this
7 chapter to be set forth in an original certificate of
8 organization.

9 See sections 134 (relating to docketing statement), 135
10 (relating to requirements to be met by filed documents) and 8907
11 (relating to execution of documents).

12 (c) Effect of domestication.--

13 (1) As a domestic limited liability company, the
14 domesticated company shall no longer be a foreign limited
15 liability company for the purposes of this chapter and shall
16 instead be a domestic limited liability company with all the
17 powers and privileges and all the duties and limitations
18 granted and imposed upon domestic limited liability
19 companies. In all other respects, the domesticated limited
20 liability company shall be deemed to be the same limited
21 liability company as it was prior to the domestication
22 without any change in or effect on its existence. Without
23 limiting the generality of the previous sentence, the
24 domestication shall not be deemed to have dissolved the
25 company or to have affected in any way:

26 (i) the right and title of the company in and to its
27 assets, property, franchises, estates and choses in
28 action;

29 (ii) the liability of the company for its debts,
30 obligations, penalties and public accounts due the

1 Commonwealth;

2 (iii) any liens or other encumbrances on the
3 property or assets of the company; or

4 (iv) any contract, license or other agreement to
5 which the company is a party or under which it has any
6 rights or obligations.

7 (2) The membership interests in the domesticated company
8 shall be unaffected by the domestication except to the
9 extent, if any, reclassified in the certificate of
10 domestication.]

11 Section 56. The definition of "transfer" in section 9112 of
12 Title 15 is amended to read:

13 § 9112. Definitions.

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

17 * * *

18 ["Transfer." Includes:

19 (1) an assignment;

20 (2) a conveyance;

21 (3) a sale;

22 (4) a lease;

23 (5) an encumbrance, including a mortgage or security
24 interest;

25 (6) a gift; and

26 (7) a transfer by operation of law.]

27 Section 57. Sections 9302(3), 9502(a) introductory
28 paragraph, 9503(b) and 9507(a) of Title 15 are amended to read:

29 § 9302. Application of chapter.

30 This chapter shall apply to and the word "association" in

1 this chapter shall mean a professional association organized
2 under the act of August 7, 1961 (P.L.941, No.416), known as the
3 Professional Association Act, which has not:

4 * * *

5 (3) [Elected to become a limited liability company in
6 the manner provided by section 8908 (relating to election of
7 professional association to become limited liability
8 company).] Converted to a limited liability company under
9 Subchapter E of Chapter 3 (relating to conversion).

10 * * *

11 § 9502. Creation, status and termination of business trusts.

12 (a) Creation.--[A business trust may be created in real or
13 personal property, or both, with power in] Except as provided in
14 the instrument, the trustee has the power:

15 * * *

16 § 9503. Documentation of trust.

17 * * *

18 (b) Definition of "instrument".--The term "instrument," as
19 used in this chapter, shall mean the original deed of trust or
20 other written instrument, all amendments thereof and any other
21 statements or certificates permitted or required to be filed in
22 the department by sections 108 (relating to change in location
23 or status of registered office provided by agent) and 138
24 (relating to statement of correction), Chapter 3 (relating to
25 entity transactions) or this chapter. If an amendment of the
26 instrument or [articles of merger made in the manner permitted
27 by section 1921(c) (relating to business trusts and other
28 associations) or a certificate of merger made in the manner
29 permitted by section 8545(c) (relating to business trusts and
30 other associations)] a statement filed under Chapter 3 restates

1 an instrument in its entirety, thenceforth the "instrument"
2 shall not include any prior documents, and any certificate
3 issued by the department with respect thereto shall so state.

4 * * *

5 § 9507. Foreign business trusts.

6 [(a) General rule.--A business trust organized under any
7 laws other than those of this Commonwealth shall be subject to
8 Subchapters B (relating to qualification) and C (relating to
9 powers, duties and liabilities) of Chapter 41, as if it were a
10 foreign business corporation, except that a qualified foreign
11 business trust shall enjoy the same rights and privileges as a
12 domestic business trust, but no more, and, except as otherwise
13 provided by law, shall be subject to the same liabilities,
14 restrictions, duties and penalties now in force or hereafter
15 imposed upon domestic business trusts, to the same extent as if
16 it were a domestic business trust.]

17 * * *

18 Section 58. Section 302 of Title 54 is amended to read:

19 § 302. Definitions.

20 (a) Definitions.--The following words and phrases when used
21 in this chapter shall have, unless the context clearly indicates
22 otherwise, the meanings given to them in this section:

23 "Business." Any commercial or professional activity.

24 "Entity." Any individual or any corporation, association,
25 partnership, joint-stock company, business trust, syndicate,
26 joint adventureship or other combination or group of persons,
27 regardless of whether it is organized or formed under the laws
28 of this Commonwealth or any other jurisdiction.

29 "Fictitious name." Any assumed or fictitious name, style or
30 designation other than the proper name of the entity using such

1 name. The term includes a name assumed by a general partnership,
2 syndicate, joint adventureship or similar combination or group
3 of persons.

4 "Proper name." When used with respect to an association of a
5 type listed in the following paragraphs, the term means the name
6 set forth in:

7 (1) the [articles of incorporation, for a corporation;]
8 public organic record, for a domestic filing association;

9 (2) the statement of registration, for a limited
10 liability partnership;

11 [(3) the certificate of limited partnership, for a
12 limited partnership;]

13 (4) the statement of election, for an electing
14 partnership;

15 [(5) the certificate of organization, for a limited
16 liability company;

17 (6) the articles of association, for a professional
18 association;

19 (7) the deed of trust or other trust instrument, if any,
20 that has been filed in the Department of State for a business
21 trust; or

22 (8) a publicly filed document in another jurisdiction
23 which is of a type listed in paragraphs (1) through (7).]

24 (9) the statement of registration of a foreign
25 registered association under 15 Pa.C.S. § 412(a)(1)(i)
26 (relating to foreign registration statement), or if that name
27 does not comply with 15 Pa.C.S. § 202 (relating to
28 requirements for names generally), the name set forth in the
29 statement under 15 Pa.C.S. § 412 (a)(1)(ii).

30 (b) Other defined terms.--The definitions in 15 Pa.C.S. §

1 102 (relating to definitions) apply to this title except to the
2 extent they are inconsistent with the provisions of this title.

3 Section 59. Section 303 of Title 54 is amended by adding a
4 subsection to read:

5 § 303. Scope of chapter.

6 * * *

7 (d) Effect of registration.--The registration of a name
8 under this chapter does not render the name unavailable for use
9 by another entity.

10 Section 60. Sections 311(e) (1) and (4), 501(a) (3), (4), (5),
11 (6) and (8) and (b), 502(a) (2) introductory paragraph and 503(b)
12 (1) (ii) and (c) of Title 54 are amended to read:

13 § 311. Registration.

14 * * *

15 (e) Duplicate use of names.--The fictitious name shall be
16 distinguishable upon the records of the department from:

17 (1) The name of any domestic [corporation, or any]
18 filing entity, domestic limited liability limited
19 partnership, domestic electing partnership, registered
20 foreign [corporation authorized to do business in this
21 Commonwealth,] association or the name of any corporation or
22 other association registered at any time under Chapter 5
23 (relating to corporate and other association names) unless
24 such name is available or is made available for use under the
25 provisions or procedures of 15 Pa.C.S. § [5303(b) (1) (i) or
26 (ii) (relating to duplicate use of names) or the equivalent.]
27 202(b) (1) (relating to requirements for names generally).

28 * * *

29 (4) A name the exclusive right to which is at the time
30 reserved or registered by any other person [whatsoever in the

1 manner provided by] under 15 Pa.C.S. § 208 (relating to
2 reservation of name) or 209 (relating to registration of name
3 of nonregistered foreign association) or another statute.

4 * * *

5 § 501. Register established.

6 (a) General rule.--A register is established by this chapter
7 which shall consist of such of the following names as are not
8 deleted therefrom by operation of section 504 (relating to
9 effect of failure to make filings) or 506 (relating to voluntary
10 termination of registration by corporations and other
11 associations):

12 * * *

13 (3) In the case of a domestic or [qualified] registered
14 foreign corporation, a name rendered unavailable for
15 corporate use by other corporations by reason of any filing
16 in the department by such domestic or [qualified] registered
17 foreign corporation.

18 (4) A name registered under 15 Pa.C.S. § [4131] 209
19 (relating to registration of name of nonregistered foreign
20 association) or any similar provision of law.

21 (5) In the case of a business trust which exists subject
22 to 15 Pa.C.S. Ch. 95 (relating to business trusts), the name
23 of the trust as set forth in the[:

24 (i)] instrument filed in the department under 15
25 Pa.C.S. § 9503 (relating to documentation of trust)[; or

26 (ii) application for registration filed under 15
27 Pa.C.S. § 9507 (relating to foreign business trusts)].

28 (6) In the case of a limited partnership or limited
29 liability company subject to 15 Pa.C.S. Ch. 85 (relating to
30 limited partnerships) or 89 (relating to limited liability

1 companies), the name of the partnership or company as set
2 forth in the certificate of limited partnership, certificate
3 of organization or [application for] statement of
4 registration as a registered foreign [limited partnership or
5 foreign limited liability company, as the case may be]
6 association.

7 (8) In the case of a registered limited liability
8 partnership subject to 15 Pa.C.S. Ch. 82 (relating to
9 registered limited liability partnerships) that is not also a
10 limited partnership, the name of the partnership as set forth
11 in the statement of registration [or application for
12 registration] as a registered foreign [registered limited
13 liability partnership] association.

14 (b) Subsequent availability of certain names.--Whenever, by
15 reason of change in name, withdrawal or dissolution of a
16 domestic or [qualified] registered foreign [corporation]
17 association, failure to renew a registration of its name by a
18 [nonqualified] nonregistered foreign [corporation] association,
19 or for any other cause, its name is no longer rendered
20 unavailable by the express provisions of Title 15 (relating to
21 corporations and unincorporated associations), such name shall
22 no longer be deemed to be registered under subsection (a)(3) or
23 (4) on the register established by this chapter.

24 § 502. Certain additions to register.

25 (a) Corporation names.--

26 * * *

27 (2) Any person who is not eligible to make a filing
28 under 15 Pa.C.S. § [4131 (relating to registration of name)
29 or 6131] 209 (relating to registration of name of
30 nonregistered foreign association) may register a corporation

1 name with the department by filing an application for
2 registration of name, executed by the person, which shall set
3 forth:

4 * * *

5 § 503. Decennial filings required.

6 * * *

7 (b) Exceptions.--Subsection (a) shall not apply to any of
8 the following:

9 (1) A corporation or other association that during the
10 ten years ending on December 31 of the year in which a filing
11 would otherwise be required under subsection (a) has made any
12 filing in the department pursuant to a provision of this
13 title or 15 Pa.C.S. (relating to corporations and
14 unincorporated associations) other than:

15 * * *

16 (ii) a filing under[:

17 (A) 15 Pa.C.S. § 1305 (relating to reservation
18 of corporate name);

19 (B) 15 Pa.C.S. § 5305 (relating to reservation
20 of corporate name);

21 (C) 15 Pa.C.S. § 8203(b) (relating to name);

22 (D) 15 Pa.C.S. § 8505(b) (relating to name); or

23 (E)] 15 Pa.C.S. § [8905(b)] 208 (relating to
24 reservation of name) or 209 (relating to registration
25 of name of nonregistered foreign association).

26 * * *

27 [(c) Exemptions.--An association shall be exempt from the
28 2001 decennial filing if the association made a filing:

29 (1) After December 31, 1989, and before January 1, 1992,
30 pursuant to a provision of this title or 15 Pa.C.S. other

1 than a filing under:

2 (i) 15 Pa.C.S. § 1305;

3 (ii) 15 Pa.C.S. § 5305;

4 (iii) 15 Pa.C.S. § 8203(b);

5 (iv) 15 Pa.C.S. § 8505(b); or

6 (v) 15 Pa.C.S. § 8905(b).

7 (2) Under this section during the year 2000.]

8 * * *

9 Section 61. This act shall take effect as follows:

10 (1) The following provisions shall take effect
11 immediately:

12 (i) The addition of 15 Pa.C.S. § 7411.

13 (ii) This section.

14 (2) The remainder of this act shall take effect July 1,
15 2015.