
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL
No. 1157 Session of
1997

INTRODUCED BY WENGER, HART, GREENLEAF, MADIGAN, SALVATORE,
LEMOND, O'PAKE, STOUT, RHOADES, WOZNIAK AND THOMPSON,
OCTOBER 14, 1997

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 6, 1998

AN ACT

1 Amending Titles 15 (Corporations and Unincorporated
2 Associations) and 54 (Names) of the Pennsylvania Consolidated
3 Statutes, relating to associations; making revisions,
4 corrections and additions; and making repeals.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the GAA
9 Amendments Act of (in preparing this act for printing in the
10 Laws of Pennsylvania, the Legislative Reference Bureau shall
11 insert here, in lieu of this statement, the calendar year of
12 enactment of this act).

13 Section 2. Amendment of Title 15.

14 As much of Title 15 as is hereinafter set forth is amended or
15 added to read:

16 § 102. Definitions.

17 Subject to additional or inconsistent definitions contained

1 in subsequent provisions of this title that are applicable to
2 specific provisions of this title, the following words and
3 phrases when used in this title shall have, unless the context
4 clearly indicates otherwise, the meanings given to them in this
5 section:

6 * * *

7 "Limited liability company." A domestic or foreign limited
8 liability company as defined in section 8903 (relating to
9 definitions and index of definitions).

10 "Profession." Includes the performance of any type of
11 personal service to the public that requires as a condition
12 precedent to the performance of the service the obtaining of a
13 license or admission to practice or other legal authorization
14 from the Supreme Court of Pennsylvania or a licensing board or
15 commission under the Bureau of Professional and Occupational
16 Affairs in the Department of State. Except as otherwise
17 expressly provided by law, this definition shall be applicable
18 to this title only and shall not affect the interpretation of
19 any other statute or any local zoning ordinance or other
20 official document heretofore or hereafter enacted or
21 promulgated.

22 "Professional services." Any type of services that may be
23 rendered by a member of a profession within the purview of his
24 profession.

25 * * *

26 § 134. Docketing statement.

27 (a) General rule.--The Department of State may, but shall
28 not be required to, prescribe by regulation one or more official
29 docketing statement forms designed to elicit from a person
30 effecting a filing under this title information that the

1 department has found to be necessary or desirable in connection
2 with the processing of a filing. [A docketing statement
3 submitted with the articles of incorporation or division of a
4 proposed domestic corporation for profit or not-for-profit, the
5 articles of domestication or application for a certificate of
6 authority of a foreign corporation for profit or not-for-profit
7 or the certificate of election of an electing partnership shall
8 set forth, inter alia, the kind or kinds of business in which
9 the association actually intends to engage in this Commonwealth
10 within one year of the submission of the docketing statement. A
11 docketing statement submitted with articles of incorporation,
12 consolidation or division of a domestic corporation not-for-
13 profit or an application for a certificate of authority of a
14 foreign corporation not-for-profit shall set forth with respect
15 to the new corporation or corporations resulting therefrom,
16 inter alia, the statute by or under which it was incorporated,
17 the date of incorporation, the names and residence addresses of
18 its chief executive officer, secretary and treasurer, regardless
19 of the names or titles by which they may be designated, the
20 address of its principal place of business and the amount, if
21 any, of its authorized and issued capital stock.] A form of
22 docketing statement prescribed under this subsection:

23 (1) Shall be published in the Pennsylvania Code.

24 (2) Shall not be integrated into a single document
25 covering the requirements of the filing and its related
26 docketing statement.

27 (3) May be required by the department in connection with
28 a filing only if notice of the requirement appears on the
29 official format for the filing prescribed under section
30 133(d) (relating to physical characteristics and copies of

documents).

(4) Shall not be required to be submitted on department-furnished forms.

(5) Shall not constitute a document filed in, with or by the department for the purposes of this title or any other provision of law except 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(b) Transmission to Department of Revenue.--The department shall note on the docketing statement the fact and date of the filing [of articles of incorporation, consolidation, merger, division, conversion or domestication or certificate of election or issuance of the certificate of authority, as the case may be, upon the docketing statement] to which the docketing statement relates and shall transmit a copy of [it] the docketing statement or the information contained therein to the Department of Revenue. If a docketing statement is not required for a particular filing, the Department of State may transmit a copy of the filing or the information contained therein to the Department of Revenue at no cost to the person effecting the filing.

(c) Transmission to other agencies.--If the docketing statement delivered to the Department of State sets forth any kind of business in which a corporation, partnership or other association may not engage without the approval of or a license from any department, board or commission of the Commonwealth, the Department of State shall, upon [the filing of articles of incorporation, consolidation, division or domestication or certificate of election or issuance of the certificate of authority] processing the filing, promptly transmit a copy of the docketing statement or the information contained therein to

1 each such department, board or commission.

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

3 * * *

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

9 (1) the use of punctuation marks;

10 (2) the use of the definite or indefinite article; or

11 (3) the use of any of the following terms to designate

12 the status of an association: "corporation," "company,"

13 "incorporated," "limited," "association," "fund,"

14 "syndicate," "limited partnership," "limited liability

15 company," "trust" or "business trust" or abbreviations of any

16 of the foregoing terms or words or abbreviations of like

17 import in languages other than English.

18 § 138. Statement of correction.

19 * * *

20 (b) Effect of filing.--

21 * * *

22 (2) A filing under this section shall not have the
23 effect of causing original articles of incorporation of a
24 corporation or a similar type of document creating any other
25 form of association to be stricken from the records of the
26 department but the articles or other document may be
27 corrected under this section.

28 * * *

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

§ 139. Tax clearance of certain fundamental transactions.

[A] (a) General rule.--Except as provided in subsection (c), a domestic association shall not file articles or a certificate of merger or consolidation effecting a merger or consolidation into a nonqualified foreign association or articles or a certificate of dissolution or a statement of revival, a qualified foreign association shall not file an application for termination of authority or similar document in the Department of State and a domestic association shall not file articles or a certificate of division dividing solely into nonqualified foreign associations unless the articles, certificate, application or other document are accompanied by clearance certificates from the Department of Revenue and the Office of Employment Security of the Department of Labor and Industry, evidencing the payment by the association of all taxes and charges due the Commonwealth required by law.

(b) Tax clearance in judicial proceedings.--Until the clearance certificates described in subsection (a) have been filed with the court:

(1) The court shall not order the dissolution of a domestic business corporation, nonprofit corporation or business trust.

(2) The court shall not approve a final distribution of the assets of a domestic general partnership, limited partnership, electing partnership or limited liability company if the court is supervising the winding up of the association.

(c) Alternative provisions.--If clearance certificates are filed with the court as required under subsection (b), it shall not be necessary to file the clearance certificates with the

1 Department of State.

2 § 153. FEE SCHEDULE. <—

3 (A) GENERAL RULE.--THE FEES OF THE CORPORATION BUREAU OF THE
4 DEPARTMENT OF STATE, INCLUDING FEES FOR THE PUBLIC ACTS AND
5 TRANSACTIONS OF THE SECRETARY OF THE COMMONWEALTH ADMINISTERED
6 THROUGH THE BUREAU, AND OF COUNTY FILING OFFICERS UNDER TITLE 13
7 (RELATING TO COMMERCIAL CODE), SHALL BE AS FOLLOWS:

8 * * *

9 (7) TRADEMARKS, EMBLEMS, UNION LABELS,

10 DESCRIPTION OF BOTTLES AND LIKE MATTERS:

11 [(I) REGISTRATION..... 52

12 (II) EACH ANCILLARY TRANSACTION..... 52]

13 (I) TRADEMARK REGISTRATION..... 25

14 (II) EACH ANCILLARY TRADEMARK

15 TRANSACTION..... 25

16 (III) ANY OTHER REGISTRATION UNDER

17 THIS PARAGRAPH..... 52

18 (IV) ANY OTHER ANCILLARY TRANSACTION

19 UNDER THIS PARAGRAPH..... 52

20 * * *

21 § 161. Domestication of certain alien associations.

22 * * *

23 (b) Statement of domestication.--The statement of
24 domestication shall be executed by the association and shall set
25 forth in the English language:

26 (1) The name of the association. If the name is in a
27 foreign language, it shall be set forth in Roman letters or
28 characters or Arabic or Roman numerals. If the name is one
29 that is rendered unavailable for use by a corporation by any
30 provision of section 1303(b) or (c) (relating to corporate

1 name), the association shall adopt a new name, in accordance
2 with any procedures for changing the name of the association
3 that are applicable prior to the domestication of the
4 association, and shall set forth the new name in the
5 statement.

6 (2) The name of the jurisdiction under the laws of which
7 and the date on which it was first formed, incorporated or
8 otherwise came into being.

9 (3) The name of the jurisdiction that constituted the
10 seat, siege social or principal place of business or control
11 administration of the association, or any equivalent under
12 applicable law, immediately prior to the filing of the
13 statement.

14 (4) A statement [that upon domestication the association
15 will be a domestic association under the laws of this
16 Commonwealth] of the type of domestic association that the
17 association will be upon domestication.

18 (5) A statement that the filing of the statement of
19 domestication and, if desired, the renunciation of the prior
20 domicile has been authorized (unless its charter or other
21 organic documents require a greater vote) by a majority in
22 interest of the shareholders, members or other proprietors of
23 the association.

24 (6) If the association will be a type of domestic
25 association that is created by a filing in the department,
26 such other provisions as are required to be included in an
27 initial filing to create that type of domestic association,
28 except that it shall not be necessary to set forth the name
29 of the person organizing the association.

30 (7) Any other provision that the association may choose

1 to insert unless this title prohibits the inclusion of such a
2 provision in a filing that creates the type of domestic
3 association that the association will be upon domestication.

4 (c) Execution.--The statement shall be signed on behalf of
5 the association by any authorized person.

6 (d) Effect of domestication.--Upon the filing of the
7 statement of domestication, the association shall be
8 domesticated in this Commonwealth and the association shall
9 thereafter be subject to any applicable provisions of this
10 title[, except Subpart B of Part II (relating to business
11 corporations),] and [to] any other provisions of law applicable
12 to associations existing under the laws of this Commonwealth. If
13 the association will be a type of domestic association that is
14 created by a filing in the department, the statement of
15 domestication shall constitute that filing. The domestication of
16 any association in this Commonwealth pursuant to this section
17 shall not be deemed to affect any obligations or liabilities of
18 the association incurred prior to its domestication.

19 (e) Exclusion.--An association that can be domesticated
20 under [section 4161 (relating to domestication) or 6161
21 (relating to domestication)] any of the following sections shall
22 not be domesticated under this section:

23 Section 4161 (relating to domestication).

24 Section 6161 (relating to domestication).

25 Section 8590 (relating to domestication).

26 Section 8982 (relating to domestication).

27 Section 9501(a)(1)(ii) (relating to application and
28 effect of chapter).

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

10 § 162. Contingent domestication of certain alien associations.

11 * * *

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

17 (1) The name of the association[. If the name is in a
18 foreign language, it shall be set forth in Roman letters or
19 characters or Arabic or Roman numerals.] as set forth in its
20 statement of contingent domestication.

21 * * *

22 (j) Cross [reference] references.--See [section] sections
23 134 (relating to docketing statement) and 135 (relating to
24 requirements to be met by filed documents).

25 § 503. ACTIONS TO REVOKE CORPORATE FRANCHISES.

<—

26 (A) GENERAL RULE.--THE ATTORNEY GENERAL MAY INSTITUTE
27 PROCEEDINGS TO REVOKE THE ARTICLES AND FRANCHISES OF A
28 CORPORATION IF IT:

29 (1) MISUSED OR FAILED TO USE ITS POWERS, PRIVILEGES OR
30 FRANCHISES;

1 (2) PROCURED ITS ARTICLES BY FRAUD; [OR]
2 (3) SHOULD NOT HAVE BEEN INCORPORATED UNDER THE
3 STATUTORY AUTHORITY RELIED UPON; OR

4 (4) VIOLATES SECTION 508 (RELATING TO FUNDING
5 PROVISION).

6 * * *

7 § 508. FUNDING PROVISION.

8 (A) GENERAL RULE.--NO CORPORATION THAT RECEIVES ANY
9 COMMONWEALTH FUNDING MAY RELOCATE ITS CENTRAL FACILITY OR ANY
10 UNIT OF ITS OPERATIONS, IN WHOLE OR IN PART, OUTSIDE THIS
11 COMMONWEALTH WITHIN A PERIOD OF FIVE YEARS FROM THE RECEIPT OF
12 THE FUNDING. THE CORPORATION SHALL NOTIFY THE COMMONWEALTH OF A
13 DECISION TO RELOCATE WITHIN THAT TIME PERIOD AND SHALL REPAY THE
14 FULL AMOUNT OF THE FUNDS 60 DAYS PRIOR TO THE RELOCATION.

15 (B) ENFORCEMENT.--THE ATTORNEY GENERAL SHALL ENFORCE
16 COMPLIANCE WITH THIS SECTION THROUGH SECTION 503 (RELATING TO
17 ACTIONS TO REVOKE CORPORATE FRANCHISES) OR MAY IMPOSE A FINE OF
18 UP TO \$25,000 PER DAY FOR EACH DAY IN WHICH A CORPORATION IS IN
19 VIOLATION OF THIS SECTION.

20 § 524. CERTAIN ACQUISITIONS AND PROPOSED ACQUISITIONS INVOLVING <—

21 BANKS, BANK AND TRUST COMPANIES, TRUST COMPANIES,
22 NATIONAL BANKS AND BANK HOLDING COMPANIES.

23 (A) SCOPE.--THIS SECTION APPLIES TO ALL INSTITUTIONS AND
24 HOLDING COMPANIES AS DEFINED IN SUBSECTION ~~(M)~~ (N). <—

25 (B) REQUIREMENT OF PRIOR APPROVAL.--EXCEPT AS PROVIDED IN
26 SUBSECTION (I), IT SHALL BE UNLAWFUL, WITHOUT THE PRIOR WRITTEN
27 APPROVAL OF THE DEPARTMENT UNDER THIS SECTION, FOR ANY PERSON:

28 (1) TO ACQUIRE, OR TO MAKE A PROPOSAL TO ACQUIRE, VOTING
29 SHARES OF AN INSTITUTION OR VOTING SHARES OF A HOLDING
30 COMPANY IF THE AGGREGATE NUMBER OF VOTING SHARES HELD AFTER

1 SUCH ACQUISITION WOULD TOTAL MORE THAN 5% OF THE OUTSTANDING
2 VOTING SHARES OF ANY CLASS OF SUCH INSTITUTION OR HOLDING
3 COMPANY; OR

4 (2) TO ENTER INTO AN ACQUISITION TRANSACTION WITH AN
5 INSTITUTION OR WITH A HOLDING COMPANY;

6 WHETHER OR NOT ANY PRIOR ACQUISITION HAD BEEN APPROVED BY THE
7 DEPARTMENT UNDER THIS SECTION.

8 (C) APPLICATION FOR APPROVAL.--IF THE APPROVAL OF THE
9 DEPARTMENT IS REQUIRED UNDER SUBSECTION (B), A PERSON WHO
10 INTENDS TO ACQUIRE, OR TO MAKE A PROPOSAL TO ACQUIRE, VOTING
11 SHARES OF, OR TO ENTER INTO AN ACQUISITION TRANSACTION WITH, AN
12 INSTITUTION OR A HOLDING COMPANY SHALL:

13 (1) FILE AN APPLICATION FOR APPROVAL IN SUCH FORM AS THE
14 DEPARTMENT MAY PRESCRIBE;

15 (2) DELIVER TO THE DEPARTMENT FROM TIME TO TIME SUCH
16 OTHER INFORMATION AS THE DEPARTMENT MAY REQUIRE WITH SUCH
17 CERTIFICATION OF FINANCIAL INFORMATION AND SUCH VERIFICATION
18 BY OATH OR AFFIRMATION OF OTHER DATA AS THE DEPARTMENT MAY
19 SPECIFY;

20 (3) PAY SUCH INVESTIGATION FEE AS THE DEPARTMENT MAY
21 SPECIFY; AND

22 (4) EXCEPT IN THE CASE OF AN APPLICANT WHICH IS A
23 DOMESTIC CORPORATION OR A FOREIGN CORPORATION QUALIFIED TO DO
24 BUSINESS IN PENNSYLVANIA, DELIVER TO THE DEPARTMENT A WRITTEN
25 CONSENT TO SERVICE OF PROCESS IN ANY ACTION OR SUIT ARISING
26 OUT OF OR IN CONNECTION WITH THE PROPOSED ACQUISITION THROUGH
27 SERVICE OF PROCESS ON THE SECRETARY OF BANKING.

28 (D) INVESTIGATION BY DEPARTMENT.--UPON RECEIPT OF AN
29 APPLICATION FOR APPROVAL AND OTHER ITEMS REQUIRED UNDER
30 SUBSECTION (C) THE DEPARTMENT SHALL CONDUCT AN INVESTIGATION TO

1 DETERMINE WHETHER THE APPLICANT HAS DEMONSTRATED BY A
2 PREPONDERANCE OF THE EVIDENCE THAT:

3 (1) THE ACQUISITION OF VOTING SHARES OR ACQUISITION
4 TRANSACTION, ITS PURPOSES AND PROBABLE EFFECTS WOULD BE
5 CONSISTENT WITH THE PURPOSES SET FORTH IN SECTION 103(A) OF
6 THE BANKING CODE;

7 (2) THE APPLICANT, OR ITS DIRECTORS AND OFFICERS IN THE
8 CASE OF A CORPORATION, AND ANY PROPOSED NEW OFFICERS OR
9 DIRECTORS OF THE INSTITUTION INVOLVED WOULD SATISFY THE TEST
10 FOR INCORPORATORS, DIRECTORS AND OFFICERS OF A NEW
11 INSTITUTION UNDER SECTION 1007(A) OF THE BANKING CODE;

12 (3) THE PROPOSED ACQUISITION OF VOTING SHARES OR
13 ACQUISITION TRANSACTION WOULD NOT BE PREJUDICIAL TO THE
14 INTERESTS OF THE DEPOSITORS, CREDITORS, BENEFICIARIES OF
15 FIDUCIARY ACCOUNTS OR SHAREHOLDERS OF THE INSTITUTION OR
16 HOLDING COMPANY INVOLVED;

17 (4) THE PROPOSED ACQUISITION OF VOTING SHARES OR
18 ACQUISITION TRANSACTION IS IN THE BEST INTERESTS OF THE
19 INSTITUTION AND, IF APPLICABLE, THE HOLDING COMPANY OF SUCH
20 INSTITUTION;

21 (5) COMPETITION AMONG INSTITUTIONS WILL NOT BE ADVERSELY
22 AFFECTED AND PUBLIC CONVENIENCE AND ADVANTAGE WILL BE
23 PROMOTED; AND

24 (6) THE APPLICANT HAS NOT BEEN PROTECTED BY THE
25 DEPARTMENT FROM AN ACQUISITION TRANSACTION. THE DEPARTMENT
26 SHALL NOT APPROVE AN ACQUISITION TRANSACTION APPLICATION
27 WHICH IS SUBMITTED BY AN APPLICANT WHICH HAS ITSELF BEEN THE
28 TARGET OF A POTENTIAL ACQUISITION TRANSACTION AND BEEN
29 PROTECTED FROM THE ACQUISITION BY THE DEPARTMENT.

30 IN MAKING THE DETERMINATION UNDER PARAGRAPHS (4) AND (5), THE

1 DEPARTMENT SHALL NOT APPROVE AN ACQUISITION OF VOTING SHARES OR
2 ACQUISITION TRANSACTION UNLESS THE ACQUISITION OF VOTING SHARES
3 OR ACQUISITION TRANSACTION IS CONSISTENT WITH THE CONVENIENCE
4 AND NEEDS OF THE CUSTOMERS AND COMMUNITIES SERVED BY THE
5 INSTITUTION AFTER TAKING INTO ACCOUNT, AMONG OTHER THINGS, THE
6 RELATIVE RATINGS UNDER THE COMMUNITY REINVESTMENT ACT OF 1977
7 (91 STAT. 1111, 12 U.S.C. § 2901 ET SEQ.), OF THE INSTITUTION
8 AND THE APPLICANT, PROSPECTIVE BRANCH CLOSINGS AND PROSPECTIVE
9 JOB LOSSES. IN MAKING THE DETERMINATION UNDER PARAGRAPHS (4) AND
10 (5), THE DEPARTMENT SHALL CONSIDER, TO THE EXTENT IT DEEMS
11 APPROPRIATE, ALL RELEVANT FACTORS, INCLUDING WITHOUT LIMITATION
12 THE MATTERS SET FORTH IN SECTION 1715(A)(1), (2) AND (3)
13 (RELATING TO EXERCISE OF POWERS GENERALLY), AND WHETHER THE
14 APPLICANT HAS DEMONSTRATED THAT THE ACQUISITION OF VOTING SHARES
15 OR ACQUISITION TRANSACTION WILL RESULT IN NET NEW BENEFITS. NO <—
16 DETERMINATION MADE BY THE DEPARTMENT UNDER PARAGRAPH (5) SHALL
17 PRECLUDE THE UNITED STATES DEPARTMENT OF JUSTICE, THE FEDERAL
18 RESERVE BOARD OR THE PENNSYLVANIA OFFICE OF ATTORNEY GENERAL
19 FROM REVIEWING OR SEEKING TO ENJOIN A TRANSACTION UNDER THE
20 FEDERAL ANTITRUST LAWS.

21 (E) INFORMATION FURNISHED TO SUBJECT INSTITUTION OR HOLDING
22 COMPANY.--AS PART OF ITS INVESTIGATION, THE DEPARTMENT SHALL
23 TRANSMIT TO THE INSTITUTION OR THE HOLDING COMPANY WHOSE VOTING
24 SHARES ARE PROPOSED TO BE ACQUIRED OR WHICH IS THE SUBJECT OF
25 SUCH ACQUISITION TRANSACTION A COPY OF THE APPLICATION AND ALL
26 OTHER INFORMATION RECEIVED FROM THE APPLICANT, EXCEPT SUCH
27 INFORMATION WHICH THE DEPARTMENT DETERMINES SHOULD BE KEPT
28 CONFIDENTIAL, FOR THE PURPOSE OF RECEIVING SUCH COMMENTS THEREON
29 AS SUCH INSTITUTION OR HOLDING COMPANY SHALL TRANSMIT TO THE
30 DEPARTMENT UPON ITS REQUEST.

1 (F) ACTION BY DEPARTMENT.--WITHIN 60 DAYS AFTER RECEIPT OF
2 AN APPLICATION UNDER SUBSECTION (C) OR WITHIN A LONGER PERIOD
3 NOT IN EXCESS OF 30 DAYS AFTER RECEIPT FROM THE APPLICANT OF
4 ADDITIONAL INFORMATION REQUIRED BY THE DEPARTMENT, THE
5 DEPARTMENT SHALL APPROVE OR DISAPPROVE THE PROPOSED ACQUISITION
6 OF VOTING SHARES OR ACQUISITION TRANSACTION AND GIVE WRITTEN
7 NOTICE OF ITS DECISION TO THE APPLICANT AND THE INSTITUTION OR
8 HOLDING COMPANY WHOSE VOTING SHARES ARE PROPOSED TO BE ACQUIRED
9 OR THAT IS THE SUBJECT OF THE ACQUISITION TRANSACTION. IF THE
10 DEPARTMENT APPROVES A PROPOSED ACQUISITION OF VOTING SHARES
11 WHICH MAY RESULT IN A CHANGE OF CONTROL OR OWNERSHIP CHANGE OF
12 SUCH INSTITUTION OR HOLDING COMPANY OR AN ACQUISITION
13 TRANSACTION, IT MAY IMPOSE CONDITIONS TO BE OBSERVED AFTER SUCH
14 ACQUISITION OF VOTING SHARES OR ACQUISITION TRANSACTION, WITH
15 RESPECT TO TRANSACTIONS BETWEEN THE INSTITUTION INVOLVED AND THE
16 APPLICANT OR AFFILIATE OF THE APPLICANT, WITH RESPECT TO
17 DIVIDENDS OR DISTRIBUTIONS BY SUCH INSTITUTIONS, WITH RESPECT TO
18 EMPLOYEE RELATIONS, WITH RESPECT TO REIMBURSEMENT FOR ANY LOSS
19 OCCASIONED BY SUCH OWNERSHIP CHANGE OR WITH RESPECT TO SUCH
20 OTHER MATTERS AS THE DEPARTMENT MAY DEEM ADVISABLE ON THE BASIS
21 OF THE PURPOSES SET FORTH IN SECTION 103(A) OF THE BANKING CODE.
22 IN MAKING THE DETERMINATION UNDER SUBSECTION (D)(5), THE
23 DEPARTMENT SHALL CONSULT WITH THE ATTORNEY GENERAL. THE DECISION
24 OF THE DEPARTMENT SHALL BE SUBJECT TO REVIEW BY THE COMMONWEALTH
25 COURT IN THE MANNER PROVIDED BY LAW.

26 (G) PROHIBITION OF MISLEADING STATEMENTS.--IT SHALL BE
27 UNLAWFUL FOR ANY PERSON DIRECTLY OR INDIRECTLY TO MAKE ANY
28 UNTRUE STATEMENT OF A MATERIAL FACT OR TO OMIT TO STATE A
29 MATERIAL FACT NECESSARY IN ORDER TO MAKE THE STATEMENTS MADE, IN
30 LIGHT OF THE CIRCUMSTANCES IN WHICH THEY WERE MADE, NOT

1 MISLEADING IN CONNECTION WITH:

2 (1) ANY ACQUISITION OF, OR PROPOSAL TO ACQUIRE, VOTING
3 SHARES THAT REQUIRES APPROVAL UNDER THIS SECTION;

4 (2) AN ACQUISITION TRANSACTION THAT REQUIRES APPROVAL
5 UNDER THIS SECTION; OR

6 (3) ANY APPLICATION OR SUBMISSION OF INFORMATION TO THE
7 DEPARTMENT UNDER SUBSECTION (C).

8 (H) REGULATION BY DEPARTMENT.--THE ENFORCEMENT AND
9 IMPLEMENTATION OF THIS SECTION SHALL BE SUBJECT TO REGULATION BY
10 THE DEPARTMENT.

11 (I) EXEMPTIONS.--NO APPROVAL UNDER THIS SECTION SHALL BE
12 REQUIRED FOR AN ACQUISITION OF OR PROPOSAL TO ACQUIRE VOTING
13 SHARES OR FOR AN ACQUISITION TRANSACTION IN THE CASE OF EITHER:

14 (1) AN ACQUISITION OR PROPOSAL TO ACQUIRE VOTING SHARES
15 BY THE ISSUER THEREOF OR AN ACQUISITION OR PROPOSAL TO
16 ACQUIRE VOTING SHARES OF AN INSTITUTION BY ITS HOLDING
17 COMPANY, OR AN ACQUISITION TRANSACTION BETWEEN AN INSTITUTION
18 AND ITS HOLDING COMPANY OR ANY OTHER ENTITY WHICH IS
19 CONTROLLED BY SUCH HOLDING COMPANY;

20 (2) A TRANSACTION BY A BROKER-DEALER WHO DOES NO MORE
21 THAN PERFORM THE CUSTOMARY BROKER'S FUNCTION IN TRANSACTIONS
22 ON A STOCK EXCHANGE OR IN THE OVER-THE-COUNTER MARKET, WHO
23 RECEIVES NO MORE THAN THE CUSTOMARY BROKER'S COMMISSION AND
24 WHO DOES NOT SOLICIT OR ARRANGE FOR THE SOLICITATION OF
25 ORDERS;

26 (3) AN ACQUISITION OR PROPOSAL TO ACQUIRE VOTING SHARES
27 OF, OR AN ACQUISITION TRANSACTION WITH, AN INSTITUTION OR
28 HOLDING COMPANY BY ANY PERSON WHICH HAS BEEN APPROVED BY A
29 MAJORITY OF THE BOARD OF DIRECTORS OF THE INSTITUTION OR
30 HOLDING COMPANY, UNLESS AT THE TIME THE INSTITUTION OR

1 HOLDING COMPANY APPROVES THE ACQUISITION OF VOTING SHARES OR
2 ACQUISITION TRANSACTION, 25% OR MORE OF THE INSTITUTION'S OR
3 HOLDING COMPANY'S BOARD IS COMPOSED OF NOMINEES, AGENTS,
4 AFFILIATES OF OR ANY OTHER PERSONS ACTING IN CONCERT WITH THE
5 PERSON OR ENTITY SEEKING TO ACQUIRE VOTING SHARES OF, OR
6 ENTER INTO AN ACQUISITION TRANSACTION WITH, THE INSTITUTION
7 OR HOLDING COMPANY;

8 (4) AN ACQUISITION OR PROPOSAL TO ACQUIRE VOTING SHARES
9 OF AN INSTITUTION OR HOLDING COMPANY BY ANY PERSON IF THE
10 AGGREGATE NUMBER OF SHARES HELD BY SUCH PERSON AFTER SUCH
11 ACQUISITION WOULD TOTAL LESS THAN 10% IN VOTING POWER OF THE
12 OUTSTANDING SHARES OF SUCH INSTITUTION OR HOLDING COMPANY
13 ENTITLED TO VOTE GENERALLY IN THE ELECTION OF DIRECTORS AND
14 SUCH PERSON IS NOT REQUIRED TO OBTAIN THE APPROVAL OF THE
15 FEDERAL RESERVE BOARD UNDER THE BANK HOLDING COMPANY ACT OF
16 1956 (70 STAT. 133, 12 U.S.C. § 1841 ET SEQ.) IN CONNECTION
17 WITH SUCH ACQUISITION; OR

18 (5) A TRANSACTION OF A TYPE EXEMPTED BY REGULATION OF
19 THE DEPARTMENT IN LIGHT OF THE PURPOSES SET FORTH IN SECTION
20 103(A) OF THE BANKING CODE.

21 (J) CRIMINAL PENALTY FOR VIOLATION.--ANY PERSON WHO ACQUIRES
22 OR PROPOSES TO ACQUIRE VOTING SHARES OF AN INSTITUTION OR OF A
23 HOLDING COMPANY OR WHO ENGAGES IN AN ACQUISITION TRANSACTION IN
24 VIOLATION OF THIS SECTION OR WHO VIOLATES SUBSECTION (G) SHALL
25 BE GUILTY OF A MISDEMEANOR AND SHALL UPON CONVICTION THEREOF BE
26 SUBJECT, IN THE CASE OF AN INDIVIDUAL, TO IMPRISONMENT FOR A
27 PERIOD NOT EXCEEDING FIVE YEARS OR A FINE NOT EXCEEDING \$5,000,
28 OR BOTH, AND, IN THE CASE OF ANY OTHER PERSON, TO A FINE NOT
29 EXCEEDING \$50,000.

30 (K) CIVIL LIABILITY PENALTY FOR VIOLATION.--ANY PERSON WHO

1 VIOLATES ANY PROVISION OF THIS SECTION SHALL BE LIABLE TO ANY
2 INSTITUTION OR HOLDING COMPANY OR SHAREHOLDER THEREOF DAMAGED
3 THEREBY AND, IN THE DISCRETION OF THE COURT, FOR PUNITIVE
4 DAMAGES. THE PROVISIONS OF THIS SECTION SHALL BE ENFORCEABLE IN
5 ANY ACTION OR SUIT INSTITUTED BY THE DEPARTMENT OR BY ANY SUCH
6 INSTITUTION, HOLDING COMPANY OR SHAREHOLDER TO ENJOIN OR
7 RESTRAIN ANY VIOLATION OR THREATENED VIOLATION OF THIS SECTION.

8 (L) SEVERABILITY.--THE PROVISIONS OF THIS SECTION SHALL BE
9 SEVERABLE. IF ANY PROVISION OF THIS SECTION OR THE APPLICATION
10 THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE
11 REMAINDER OF THIS SECTION, AND THE APPLICATION OF SUCH PROVISION
12 TO OTHER PERSONS OR CIRCUMSTANCES, SHALL NOT BE AFFECTED
13 THEREBY, UNLESS THE COURT FINDS THAT THE VALID PROVISIONS OF
14 THIS SECTION ARE SO ESSENTIALLY AND INSEPARABLY CONNECTED WITH,
15 AND SO DEPEND UPON, THE VOID PROVISION OR APPLICATION, THAT IT
16 CANNOT BE PRESUMED THE GENERAL ASSEMBLY WOULD HAVE ENACTED THE
17 REMAINING VALID PROVISIONS WITHOUT THE VOID ONE; OR UNLESS THE
18 COURT FINDS THAT THE REMAINING VALID PROVISIONS, STANDING ALONE,
19 ARE INCOMPLETE AND ARE INCAPABLE OF BEING EXECUTED IN ACCORDANCE
20 WITH THE LEGISLATIVE INTENT.

21 (M) EXPIRATION.--THIS SECTION SHALL EXPIRE 36 MONTHS FROM <—
22 THE EFFECTIVE DATE OF THIS SECTION.

23 ~~(M)~~ (N) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING <—
24 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
25 SUBSECTION:

26 "ACQUIRE." OBTAINING LEGAL OR BENEFICIAL OWNERSHIP OF VOTING
27 SHARES, WHETHER OBTAINED DIRECTLY OR INDIRECTLY, THROUGH AN
28 INTERMEDIARY OR OTHERWISE; BENEFICIAL OWNERSHIP BY A PERSON
29 SHALL BE DEEMED TO INCLUDE OWNERSHIP BY ANOTHER PERSON WHICH
30 CONTROLS, IS CONTROLLED BY OR IS UNDER COMMON CONTROL WITH SUCH

1 PERSON AND TO INCLUDE OWNERSHIP BY A SPOUSE OR MEMBER OF THE
2 FAMILY OF SUCH PERSON; THE ACQUISITION OF OPTIONS, WARRANTS AND
3 RIGHTS TO SUBSCRIBE FOR, OR TO PURCHASE, VOTING SHARES AND THE
4 ACQUISITION OF RIGHTS TO OBTAIN VOTING SHARES THROUGH CONVERSION
5 OR EXCHANGE SHALL BE DEEMED AN ACQUISITION OF SUCH VOTING
6 SHARES.

7 "ACQUISITION TRANSACTION." A MERGER, SALE OF ASSETS OR OTHER
8 SIMILAR TRANSACTION INVOLVING AN INSTITUTION OR A HOLDING
9 COMPANY FOLLOWING WHICH:

10 (1) PERSONS WHO ARE DIRECTORS OF SUCH INSTITUTION OR
11 HOLDING COMPANY IMMEDIATELY PRIOR TO THE CONSUMMATION OF SUCH
12 TRANSACTION SHALL NOT CONSTITUTE AT LEAST ONE-HALF OF THE
13 DIRECTORS OF THE SURVIVING, SUCCESSOR OR TRANSFEREE
14 INSTITUTION OR HOLDING COMPANY IMMEDIATELY FOLLOWING THE
15 CONSUMMATION OF SUCH TRANSACTION; OR

16 (2) HOLDERS OF VOTING SHARES OF SUCH INSTITUTION OR
17 HOLDING COMPANY IMMEDIATELY PRIOR TO THE CONSUMMATION OF SUCH
18 TRANSACTION SHALL NOT BE HOLDERS OF AT LEAST ONE-HALF OF THE
19 VOTING SHARES OF THE SURVIVING, SUCCESSOR OR TRANSFEREE
20 INSTITUTION OR HOLDING COMPANY IMMEDIATELY FOLLOWING THE
21 CONSUMMATION OF SUCH TRANSACTION.

22 "BANKING CODE." THE ACT OF NOVEMBER 30, 1965 (P.L.847,
23 NO.356), KNOWN AS THE BANKING CODE OF 1965.

24 "DEPARTMENT." THE DEPARTMENT OF BANKING OF THE COMMONWEALTH.

25 "HOLDING COMPANY." A CORPORATION THAT HAS THE POWER TO
26 ELECT, DIRECTLY OR INDIRECTLY, A MAJORITY OF THE BOARD OF
27 DIRECTORS OF AN INSTITUTION.

28 "INSTITUTION." A BANK, BANK AND TRUST COMPANY, NATIONAL BANK
29 OR STOCK SAVINGS BANK HAVING ITS MAIN OFFICE IN PENNSYLVANIA.

30 ~~AND HAVING DEPOSITS IN EXCESS OF \$10,000,000,000 AS OF DECEMBER~~

1 31, 1997.

2 "NET NEW BENEFITS." INITIAL CAPITAL INVESTMENTS, JOB
3 CREATION PLANS, CONSUMER AND BUSINESS SERVICES, COMMITMENTS TO
4 MAINTAIN AND OPEN BRANCH OFFICES WITHIN A BANKING INSTITUTION'S
5 DELINEATED LOCAL COMMUNITY AND SUCH OTHER MATTERS AS THE
6 DEPARTMENT MAY DEEM NECESSARY OR ADVISABLE.

7 "OWNERSHIP CHANGE." THE SAME MEANING AS IN SECTION 382 OF
8 THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C.
9 § 1 ET SEQ.).

10 "PROPOSAL TO ACQUIRE." ANY OFFER OR ATTEMPT TO BUY OR
11 SOLICITATION OF AN OFFER TO SELL OR OTHER ATTEMPT OR OFFER TO
12 ACQUIRE BY ANY MEANS, DIRECTLY OR INDIRECTLY, THROUGH AN
13 INTERMEDIARY OR OTHERWISE.

14 "VOTING SHARES." SHARES OF AN INSTITUTION OR HOLDING COMPANY
15 ENTITLED TO VOTE GENERALLY IN THE ELECTION OF DIRECTORS.

16 § 1303. Corporate name.

17 * * *

18 (b) Duplicate use of names.--The corporate name shall [not
19 be the same as or confusingly similar to] be distinguishable
20 upon the records of the Department of State from:

21 (1) The name of any other domestic corporation for
22 profit or not-for-profit which is either in existence or for
23 which articles of incorporation have been filed but have not
24 yet become effective, or of any foreign corporation for
25 profit or not-for-profit which is either authorized to do
26 business in this Commonwealth or for which an application for
27 a certificate of authority has been filed but has not yet
28 become effective, [or of any domestic or foreign limited
29 partnership that has filed in the Department of State a
30 certificate or qualified under Chapter 85 (relating to

1 limited partnerships) or under corresponding provisions of
2 prior law,] or the name of any association registered at any
3 time under 54 Pa.C.S. Ch. 5 (relating to corporate and other
4 association names), unless[: (i) where the name is the same
5 or confusingly similar,] the other association:

6 [(A)] (i) has stated that it is about to change
7 its name, or to cease to do business, or is being
8 wound up, or is a foreign association about to
9 withdraw from doing business in this Commonwealth,
10 and the statement and [the] a written consent [of the
11 other association] to the adoption of the name
12 executed by the other association is filed in the
13 Department of State;

14 [(B)] (ii) has filed with the Department of
15 Revenue a certificate of out of existence, or has
16 failed for a period of three successive years to file
17 with the Department of Revenue a report or return
18 required by law and the fact of such failure has been
19 certified by the Department of Revenue to the
20 Department of State;

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

1 [(D)] (iv) has had the registration of its name
2 under 54 Pa.C.S. Ch. 5 terminated and, if the
3 termination was effected by operation of 54 Pa.C.S. §
4 504 (relating to effect of failure to make decennial
5 filings), the application for the use of the name is
6 accompanied by a verified statement stating that at
7 least 30 days' written notice of intention to
8 appropriate the name was given to the delinquent
9 association at its [registered office] last known
10 place of business and that, after diligent search by
11 the affiant, the affiant believes the association to
12 be out of existence.]; or

13 (ii) where the name is confusingly similar, the
14 consent of the other association to the adoption of the
15 name is filed in the Department of State.

16 The consent of the association shall be evidenced by a
17 statement to that effect executed by the association.]

18 * * *

19 (e) Remedies for violation of section.--The use of a name in
20 violation of this section shall not vitiate or otherwise affect
21 the corporate existence but any court having jurisdiction may
22 enjoin the corporation from using or continuing to use a name in
23 violation of this section, upon the application of:

24 (1) the Attorney General, acting on his own motion or at
25 the instance of any administrative department, board or
26 commission of this Commonwealth; or

27 (2) any person adversely affected.];
28 may enjoin the corporation from using or continuing to use a
29 name in violation of this section.]

30 (f) Cross references.--See sections 135(e) (relating to

1 distinguishable names) and 1106(b)(2) (relating to uniform
2 application of subpart).

3 § 1304. Required name changes by senior corporations.

4 * * *

5 (b) Enforcement of undertaking to release name.--If a
6 corporation has used a name [the same as or confusingly similar
7 to] that is not distinguishable upon the records of the
8 Department of State from the name of another corporation or
9 other association as permitted by section [1303(b)(1)(i)]
10 1303(b)(1) (relating to duplicate use of names) and the other
11 corporation or other association continues to use its name in
12 this Commonwealth and does not change its name, cease to do
13 business, be wound up or withdraw as it proposed to do in its
14 consent or change its name as required by subsection (a), any
15 court having jurisdiction may enjoin the other corporation or
16 other association from continuing to use its name or a name that
17 is not distinguishable therefrom, upon the application of:

18 (1) the Attorney General, acting on his own motion or at
19 the instance of any administrative department, board or
20 commission of this Commonwealth; or

21 (2) any person adversely affected. [;
22 may enjoin the other corporation or other association from
23 continuing to use its name or a confusingly similar name.]

24 § 1311. Filing of statement of summary of record by certain
25 corporations.

26 (a) General rule.--Where any of the [valid] charter
27 documents of a business corporation are not on file in the
28 Department of State or there is an error in any such document as
29 transferred to the department pursuant to section 140 (relating
30 to custody and management of orphan corporate and business

1 records), and the corporation desires to file any document in
2 the department under any other provision of this subpart or the
3 corporation desires to secure from the department any
4 certificate to the effect that the corporation is a corporation
5 duly incorporated and existing under the laws of this
6 Commonwealth or a certified copy of the articles of the
7 corporation or the corporation desires to correct the text of
8 its charter documents as on file in the department, the
9 corporation shall file in the department a statement of summary
10 of record which shall be executed by the corporation and shall
11 set forth:

12 (1) The name of the corporation and, subject to section
13 109 (relating to name of commercial registered office
14 provider in lieu of registered address), the location,
15 including street and number, if any, of its registered
16 office.

17 (2) The statute by or under which the corporation was
18 incorporated.

19 (3) The name under which, the manner in which and the
20 date on which the corporation was originally incorporated,
21 including the date when and the place where the original
22 articles were recorded.

23 (4) The place or places, including volume and page
24 numbers or their equivalent, where the documents
25 [constituting the currently effective articles are] that are
26 not on file in the department or that require correction in
27 the records of the department were originally filed or
28 recorded, the date or dates of each filing or recording and
29 the correct text of the [currently effective articles.]
30 documents. The information specified in this paragraph may be

omitted in a statement of summary of record that is delivered to the department contemporaneously with amended and restated articles of the corporation filed under this subpart.

[(5) Each name by which the corporation was known, if any, other than its original name and its current name, and the date or dates on which each change of name of the corporation became effective.

(6) In the case of any entity brought within the scope of Chapter 29 (relating to professional corporations) by or pursuant to section 2905 (relating to election of professional associations to become professional corporations), amended and restated articles of incorporation which shall include all of the information required to be set forth in restated articles of a professional corporation.

A corporation shall be required to make only one filing under this subsection.]

(b) Validation of prior defects in incorporation.--Upon the filing of a statement by a corporation under this section or the transfer to the department of the records relating to a corporation pursuant to section 140, the corporation [named in the statement] shall be deemed to be a validly subsisting corporation to the same extent as if it had been duly incorporated and was existing under this subpart and the department shall so certify regardless of any absence of or defect in the prior proceedings relating to incorporation.

(c) Cross [reference] references.--See [section] sections 134 (relating to docketing statement), 135 (relating to requirements to be met by filed documents) and 1106(b)(2) (relating to uniform application of subpart).

§ 1504. Adoption, amendment and contents of bylaws.

1 * * *

2 (d) Amendment of voting provisions.--

3 (1) Unless otherwise provided in a bylaw adopted by the
4 shareholders, whenever [the bylaws require] a bylaw adopted
5 by the shareholders requires for the taking of any action by
6 the shareholders or a class of shareholders a specific number
7 or percentage of votes, the provision of the bylaws setting
8 forth that requirement shall not be amended or repealed by
9 any lesser number or percentage of votes of the shareholders
10 or of the class of shareholders or only by action of the
11 board of directors.

12 (2) Paragraph (1) shall not apply to a bylaw setting
13 forth the right of shareholders to act by unanimous written
14 consent as provided in section 1766(a) (relating to unanimous
15 consent).

16 § 1505. Persons bound by bylaws.

17 Except as otherwise provided by section 1713 (relating to
18 personal liability of directors) or any similar provision of
19 law, the bylaws of a business corporation shall operate only as
20 regulations among the shareholders, directors and officers of
21 the corporation and shall not affect contracts or other dealings
22 with other persons unless those persons have actual knowledge of
23 the bylaws.

24 § 1508. Corporate records; inspection by shareholders.

25 (a) Required records.--Every business corporation shall keep
26 complete and accurate books and records of account, minutes of
27 the proceedings of the incorporators, shareholders and directors
28 and a share register giving the names and addresses of all
29 shareholders and the number and class of shares held by each.

30 The share register shall be kept at [either] any of the

1 following locations:

2 (1) the registered office of the corporation in this
3 Commonwealth [or at its];

4 (2) the principal place of business of the corporation
5 wherever situated;

6 (3) any actual business office of the corporation; or
7 [at]

8 (4) the office of [its] the registrar or transfer agent
9 of the corporation. [Any books, minutes or other records may
10 be in written form or any other form capable of being
11 converted into written form within a reasonable time.]

12 (b) Right of inspection by a shareholder.--Every shareholder
13 shall, upon written verified demand stating the purpose thereof,
14 have a right to examine, in person or by agent or attorney,
15 during the usual hours for business for any proper purpose, the
16 share register, books and records of account, and records of the
17 proceedings of the incorporators, shareholders and directors and
18 to make copies or extracts therefrom. A proper purpose shall
19 mean a purpose reasonably related to the interest of the person
20 as a shareholder. In every instance where an attorney or other
21 agent is the person who seeks the right of inspection, the
22 demand shall be accompanied by a verified power of attorney or
23 other writing that authorizes the attorney or other agent to so
24 act on behalf of the shareholder. The demand shall be directed
25 to the corporation:

26 (1) at its registered office in this Commonwealth [or];

27 (2) at its principal place of business wherever
28 situated; or

29 (3) in care of the person in charge of an actual
30 business office of the corporation.

1 (c) Proceedings for the enforcement of inspection by a
2 shareholder.--If the corporation, or an officer or agent
3 thereof, refuses to permit an inspection sought by a shareholder
4 or attorney or other agent acting for the shareholder pursuant
5 to subsection (b) or does not reply to the demand within five
6 business days after the demand has been made, the shareholder
7 may apply to the court for an order to compel the inspection.
8 The court shall determine whether or not the person seeking
9 inspection is entitled to the inspection sought. The court may
10 summarily order the corporation to permit the shareholder to
11 inspect the share register and the other books and records of
12 the corporation and to make copies or extracts therefrom, or the
13 court may order the corporation to furnish to the shareholder a
14 list of its shareholders as of a specific date on condition that
15 the shareholder first pay to the corporation the reasonable cost
16 of obtaining and furnishing the list and on such other
17 conditions as the court deems appropriate. Where the shareholder
18 seeks to inspect the books and records of the corporation, other
19 than its share register or list of shareholders, he shall first
20 establish:

21 (1) That he has complied with the provisions of this
22 section respecting the form and manner of making demand for
23 inspection of the document.

24 (2) That the inspection he seeks is for a proper
25 purpose.

26 Where the shareholder seeks to inspect the share register or
27 list of shareholders of the corporation and he has complied with
28 the provisions of this section respecting the form and manner of
29 making demand for inspection of the documents, the burden of
30 proof shall be upon the corporation to establish that the

1 inspection he seeks is for an improper purpose. The court may,
2 in its discretion, prescribe any limitations or conditions with
3 reference to the inspection or award such other or further
4 relief as the court deems just and proper. The court may order
5 books, documents and records, pertinent extracts therefrom, or
6 duly authenticated copies thereof, to be brought into this
7 Commonwealth and kept in this Commonwealth upon such terms and
8 conditions as the order may prescribe.

9 (d) Certain provisions of articles ineffective.--This
10 section may not be relaxed by any provision of the articles.

11 (e) Cross [reference] references.--See [section] sections
12 107 (relating to form of records), 1512 (relating to
13 informational rights of a director) and 1763(c) (relating to
14 certification by nominee).

15 § 1512. Informational rights of a director.

16 (a) General rule.--To the extent reasonably related to the
17 performance of the duties of the director, including those
18 arising from service as a member of a committee of the board of
19 directors, a director of a business corporation is entitled:

20 (1) in person or by any attorney or other agent, at any
21 reasonable time, to inspect and copy corporate books, records
22 and documents and, in addition, to inspect, and receive
23 information regarding, the assets, liabilities and operations
24 of the corporation and any subsidiaries of the corporation
25 incorporated or otherwise organized or created under the laws
26 of this Commonwealth that are controlled directly or
27 indirectly by the corporation; and

28 (2) to demand that the corporation exercise whatever
29 rights it may have to obtain information regarding any other
30 subsidiaries of the corporation.

1 (b) Proceedings for enforcement of inspection by a
2 director.--If the corporation, or an officer or agent thereof,
3 refuses to permit an inspection or obtain or provide information
4 sought by a director or attorney or other agent acting for the
5 director pursuant to subsection (a) or does not reply to the
6 request within two business days after the request has been
7 made, the director may apply to the court for an order to compel
8 the inspection or the obtaining or providing of the information.
9 The court shall summarily order the corporation to permit the
10 requested inspection or to obtain the information unless the
11 corporation establishes that the information to be obtained by
12 the exercise of the right is not reasonably related to the
13 performance of the duties of the director or that the director
14 or the attorney or agent of the director is likely to use the
15 information in a manner that would violate the duty of the
16 director to the corporation. The order of the court may contain
17 provisions protecting the corporation from undue burden or
18 expense and prohibiting the director from using the information
19 in a manner that would violate the duty of the director to the
20 corporation.

21 (c) Cross references.--See sections 107 (relating to form of
22 records) and 1508 (relating to corporate records; inspection by
23 shareholders) and 42 Pa.C.S. § 2503(7) (relating to right of
24 participants to receive counsel fees).

25 § 1521. Authorized shares.

26 * * *

27 (b) Provisions specifically authorized.--

28 (1) Without limiting the authority contained in
29 subsection (a), a corporation, when so authorized in its
30 articles, may issue classes or series of shares:

1 (i) Subject to the right or obligation of the
2 corporation to redeem any of the shares for the
3 consideration, if any, fixed by or in the manner provided
4 by the articles for the redemption thereof. Unless
5 otherwise provided in the articles, any shares subject to
6 redemption shall be redeemable only pro rata or by lot or
7 by such other equitable method as may be selected by the
8 corporation. [An amendment of the articles to add or
9 amend a provision permitting the redemption of any shares
10 by a method that is not pro rata nor by lot nor otherwise
11 equitable may be effected only pursuant to section 1906
12 (relating to special treatment of holders of shares of
13 same class or series).]

14 (ii) Entitling the holders thereof to cumulative,
15 noncumulative or partially cumulative dividends.

16 (iii) Having preference over any other shares as to
17 dividends or assets or both.

18 (iv) Convertible into shares of any other class or
19 series, or into obligations of the corporation.

20 (2) Any of the terms of a class or series of shares may
21 be made dependent upon:

22 (i) Facts ascertainable outside of the articles if
23 the manner in which the facts will operate upon the terms
24 of the class or series is set forth in the articles. Such
25 facts may include, without limitation, actions or events
26 within the control of or determinations made by the
27 corporation or a representative of the corporation.

28 * * *

29 (d) Status and rights.--Shares of a business corporation
30 shall be deemed personal property. Except as otherwise provided

1 by the articles or, when so permitted by subsection (c), by one
2 or more bylaws adopted by the shareholders, each share shall be
3 in all respects equal to every other share. See section
4 1906(d)(4) (relating to special treatment of holders of shares
5 of same class or series).

6 § 1526. Liability of [subscribers and] shareholders.

7 [A subscriber to, or holder or owner of, shares of a business
8 corporation shall not be under any liability to the corporation
9 or any creditor thereof with respect to the shares other than
10 the personal obligation of a shareholder who has acquired his
11 shares by subscription to comply with the terms of the
12 subscription.] (a) General rule.--A shareholder of a business
13 corporation shall not be liable, solely by reason of being a
14 shareholder, under an order of a court or in any other manner
15 for a debt, obligation or liability of the corporation of any
16 kind or for the acts of any shareholder or representative of the
17 corporation.

18 (b) Professional relationship unaffected.--Subsection (a)
19 shall not afford the shareholders of a business corporation that
20 is not a professional corporation, but that provides
21 professional services, with greater immunity than is available
22 to the officers, shareholders, employees or agents of a business
23 corporation that is a professional corporation. See section 2925
24 (relating to professional relationship retained).

25 (c) Disciplinary jurisdiction unaffected.--A business
26 corporation providing professional services shall be subject to
27 the applicable rules and regulations adopted by, and all the
28 disciplinary powers of, the court, department, board, commission
29 or other government unit regulating the profession in which the
30 corporation is engaged. The court, department, board or other

1 government unit may require that a corporation include in its
2 articles provisions that conform to any rule or regulation
3 heretofore or hereafter promulgated for the purpose of enforcing
4 the ethics of a profession. This subpart shall not affect or
5 impair the disciplinary powers of the court, department, board,
6 commission or other government unit over licensed persons or any
7 law, rule or regulation pertaining to the standards for
8 professional conduct of licensed persons or to the professional
9 relationship between any licensed person rendering professional
10 services and the person receiving professional services.

11 § 1571. Application and effect of subchapter.

12 (a) General rule.--Except as otherwise provided in
13 subsection (b), any shareholder (as defined in section 1572
14 (relating to definitions)) of a business corporation shall have
15 the right to dissent from, and to obtain payment of the fair
16 value of his shares in the event of, any corporate action, or to
17 otherwise obtain fair value for his shares, only where this part
18 expressly provides that a shareholder shall have the rights and
19 remedies provided in this subchapter. See:

20 Section 1906(c) (relating to dissenters rights upon
21 special treatment).

22 Section 1930 (relating to dissenters rights).

23 Section 1931(d) (relating to dissenters rights in share
24 exchanges).

25 Section 1932(c) (relating to dissenters rights in asset
26 transfers).

27 Section 1952(d) (relating to dissenters rights in
28 division).

29 Section 1962(c) (relating to dissenters rights in
30 conversion).

1 Section 2104(b) (relating to procedure).

2 Section 2324 (relating to corporation option where a
3 restriction on transfer of a security is held invalid).

4 Section 2325(b) (relating to minimum vote requirement).

5 Section 2704(c) (relating to dissenters rights upon
6 election).

7 Section 2705(d) (relating to dissenters rights upon
8 renewal of election).

9 Section 2904(b) (relating to procedure).

10 Section 2907(a) (relating to proceedings to terminate
11 breach of qualifying conditions).

12 Section 7104(b)(3) (relating to procedure).

13 (b) Exceptions.--

14 (1) Except as otherwise provided in paragraph (2), the
15 holders of the shares of any class or series of shares [that,
16 at] shall not have the right to dissent and obtain payment of
17 the fair value of the shares under this subchapter if, on the
18 record date fixed to determine the shareholders entitled to
19 notice of and to vote at the meeting at which a plan
20 specified in any of section 1930, 1931(d), 1932(c) or 1952(d)
21 is to be voted on, or on the date of the first public
22 announcement that such a plan has been approved by the
23 shareholders by written consent without a meeting, the shares
24 are either:

25 (i) listed on a national securities exchange or
26 designated as a national market system security on an
27 interdealer quotation system by the National Association
28 of Securities Dealers, Inc.; or

29 (ii) held beneficially or of record by more than
30 2,000 [shareholders;

1 shall not have the right to obtain payment of the fair value
2 of any such shares under this subchapter.] persons.

3 (2) Paragraph (1) shall not apply to and dissenters
4 rights shall be available without regard to the exception
5 provided in that paragraph in the case of:

6 (i) [Shares converted by a plan if the shares are
7 not converted solely into shares of the acquiring,
8 surviving, new or other corporation or solely into such
9 shares and money in lieu of fractional shares.]

10 (Repealed.)

11 (ii) Shares of any preferred or special class or
12 series unless the articles, the plan or the terms of the
13 transaction entitle all shareholders of the class or
14 series to vote thereon and require for the adoption of
15 the plan or the effectuation of the transaction the
16 affirmative vote of a majority of the votes cast by all
17 shareholders of the class or series.

18 (iii) Shares entitled to dissenters rights under
19 section 1906(c) (relating to dissenters rights upon
20 special treatment).

21 (3) The shareholders of a corporation that acquires by
22 purchase, lease, exchange or other disposition all or
23 substantially all of the shares, property or assets of
24 another corporation by the issuance of shares, obligations or
25 otherwise, with or without assuming the liabilities of the
26 other corporation and with or without the intervention of
27 another corporation or other person, shall not be entitled to
28 the rights and remedies of dissenting shareholders provided
29 in this subchapter regardless of the fact, if it be the case,
30 that the acquisition was accomplished by the issuance of

voting shares of the corporation to be outstanding immediately after the acquisition sufficient to elect a majority or more of the directors of the corporation.

* * *

(g) Computation of beneficial ownership.--For purposes of subsection (b)(1)(ii), shares that are held beneficially as joint tenants, tenants by the entireties, tenants in common or in trust by two or more persons, as fiduciaries or otherwise, shall be deemed to be held beneficially by one person.

~~[(g)]~~ (h) Cross references.--See sections 1105 (relating to restriction on equitable relief), 1904 (relating to de facto transaction doctrine abolished), 1763(c) (relating to determination of shareholders of record) and 2512 (relating to dissenters rights procedure).

§ 1572. Definitions.

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

"Corporation." The issuer of the shares held or owned by the dissenter before the corporate action or the successor by merger, consolidation, division, conversion or otherwise of that issuer. A plan of division may designate which one or more of the resulting corporations is the successor corporation for the purposes of this subchapter. The designated successor corporation or corporations in a division shall have sole responsibility for payments to dissenters and other liabilities under this subchapter except as otherwise provided in the plan of division.

"Dissenter." A shareholder [or beneficial owner] who is entitled to and does assert dissenters rights under this

subchapter and who has performed every act required up to the time involved for the assertion of those rights.

* * *

"Shareholder." A shareholder as defined in section 1103 (relating to definitions), or an ultimate beneficial owner of shares, including without limitation a holder of depository receipts, where the beneficial interest owned includes an interest in the assets of the corporation upon dissolution.

§ 1704. Place and notice of meetings of shareholders.

(a) Place.--Meetings of shareholders may be held at such place within or without this Commonwealth as may be provided in or fixed pursuant to the bylaws. Unless otherwise provided in or pursuant to the bylaws, all meetings of the shareholders shall be held [in this Commonwealth at the registered office of the corporation] at the executive office of the corporation wherever situated.

* * *

§ 1709. Conduct of shareholders meeting.

(a) Presiding officer.--There shall be a presiding officer at every meeting of the shareholders. The presiding officer shall be appointed in the manner provided in the bylaws or, in the absence of such provision, by the board of directors. If the bylaws are silent on the appointment of the presiding officer and the board fails to designate a presiding officer, the president shall be the presiding officer.

(b) Authority of the presiding officer.--Except as otherwise provided in the bylaws, the presiding officer shall determine the order of business and shall have the authority to establish rules for the conduct of the meeting.

(c) Procedural standard.--Any action by the presiding

1 officer in adopting rules for, and in conducting, a meeting
2 shall be fair to the shareholders.

3 (d) Closing of the polls.--The presiding officer shall
4 announce at the meeting when the polls close for each matter
5 voted upon. If no announcement is made, the polls shall be
6 deemed to have closed upon the final adjournment of the meeting.
7 After the polls close, no ballots, proxies or votes, nor any
8 revocations or changes thereto, may be accepted.

9 § 1729. Voting rights of directors.

10 (a) General rule.--Unless otherwise provided in a bylaw
11 adopted by the shareholders, every director of a business
12 corporation shall be entitled to one vote. Without limiting the
13 generality of the foregoing, a bylaw adopted by the shareholders
14 may provide that a class or other defined group of directors
15 shall have multiple or fractional voting rights, or no right to
16 vote, either generally or under specified circumstances.

17 (b) [Multiple and fractional voting] Application of
18 procedural requirements.--Any requirement of this subpart for
19 the presence of or vote or other action by a specified
20 percentage of directors shall be satisfied by the presence of or
21 vote or other action by directors entitled to cast the specified
22 percentage of the votes that all voting directors in office are
23 entitled to cast.

24 § 1731. Executive and other committees of the board.

25 (a) Establishment and powers.--Unless otherwise restricted
26 in the bylaws:

27 * * *

28 (2) Any committee, to the extent provided in the
29 resolution of the board of directors or in the bylaws, shall
30 have and may exercise all of the powers and authority of the

board of directors except that a committee shall not have any power or authority as to the following:

(i) The submission to shareholders of any action requiring approval of shareholders under this subpart.

(ii) The creation or filling of vacancies in the board of directors.

(iii) The adoption, amendment or repeal of the bylaws.

(iv) The amendment or repeal of any resolution of the board that by its terms is amendable or repealable only by the board.

(v) Action on matters committed by the bylaws or resolution of the board of directors exclusively to another committee of the board.

* * *

§ 1734. LIMITATION ON CERTAIN INCREASES IN COMPENSATION OR BENEFITS.

(A) GENERAL RULE.--NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE OR ANY OTHER STATE LAW TO THE CONTRARY, AFTER RECEIPT OF A FORMAL TENDER OFFER, THE AUTHORITY OF THE BOARD OF DIRECTORS OR ANY SUBCOMMITTEE ACTING FOR THE BOARD OR THE OFFICERS OF THE CORPORATION OR ANY SUBCOMMITTEE ACTING FOR THE OFFICERS TO PROVIDE FOR OR TO APPROVE ANY INCREASE IN THE COMPENSATION, BENEFITS, ENTITLEMENTS, RETIREMENT BENEFITS OR OPTIONS OR ANY OTHER EMOLUMENTS OF OFFICE FOR A DIRECTOR OR OFFICER OF THE CORPORATION SHALL BE SUSPENDED EXCEPT AS PROVIDED IN SUBSECTION (B).

(B) PERMITTED INCREASES.--THE BOARD OF DIRECTORS OR THE OFFICERS OF THE CORPORATION SHALL HAVE THE AUTHORITY AND MAY PROVIDE FOR AND APPROVE AN INCREASE IN COMPENSATION WHICH IS

EQUAL TO THE INCREASE IN THE ANNUAL COST-OF-LIVING ADJUSTMENT
CALCULATED BY APPLYING THE PERCENTAGE CHANGE IN THE CONSUMER
PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U) FOR THE
PENNSYLVANIA, NEW JERSEY, DELAWARE AND MARYLAND AREA, FOR THE
MOST RECENT 12-MONTH PERIOD FOR WHICH FIGURES HAVE BEEN
OFFICIALLY REPORTED BY THE UNITED STATES DEPARTMENT OF LABOR,
BUREAU OF LABOR STATISTICS, IMMEDIATELY PRIOR TO THE DATE THE
ADJUSTMENT IS DUE TO TAKE EFFECT, TO THE THEN CURRENT
COMPENSATION.

(C) EXPIRATION.--THIS SECTION SHALL EXPIRE 18 MONTHS AFTER
THE DATE THIS SECTION TAKES EFFECT.

§ 1745. Advancing expenses.

Expenses (including attorneys' fees) incurred in defending
any action or proceeding referred to in this subchapter may be
paid by a business corporation in advance of the final
disposition of the action or proceeding upon receipt of an
undertaking by or on behalf of the representative to repay the
amount if it is ultimately determined that he is not entitled to
be indemnified by the corporation as authorized in this
subchapter or otherwise. Except as otherwise provided in the
bylaws, advancement of expenses shall be authorized by the board
of directors. Sections 1728 (relating to interested directors or
officers; quorum) and 2538 (relating to approval of transactions
with interested shareholders) shall not be applicable to the
advancement of expenses under this section.

§ 1748. Application to surviving or new corporations.

[For] (a) General rule.--Except as provided in subsection
(b), for the purposes of this subchapter, references to "the
corporation" include all constituent corporations absorbed in a
consolidation, merger or division, as well as the surviving or

1 new corporations surviving or resulting therefrom, so that any
2 person who is or was a representative of the constituent,
3 surviving or new corporation, or is or was serving at the
4 request of the constituent, surviving or new corporation as a
5 representative of another domestic or foreign corporation for
6 profit or not-for-profit, partnership, joint venture, trust or
7 other enterprise, shall stand in the same position under the
8 provisions of this subchapter with respect to the surviving or
9 new corporation as he would if he had served the surviving or
10 new corporation in the same capacity.

11 (b) Divisions.--Notwithstanding subsection (a), the
12 obligations of a dividing corporation to indemnify and advance
13 expenses to its representatives, whether arising under this
14 subchapter or otherwise, may be allocated in a division in the
15 same manner and with the same effect as any other liability of
16 the dividing corporation.

17 § 1756. Quorum.

18 (a) General rule.--A meeting of shareholders of a business
19 corporation duly called shall not be organized for the
20 transaction of business unless a quorum is present. Unless
21 otherwise provided in a bylaw adopted by the shareholders:

22 * * *

23 (4) If a proxy casts a vote on behalf of a shareholder
24 on any issue considered at a meeting of shareholders, the
25 shareholder shall be deemed to be present during the entire
26 meeting for purposes of determining whether a quorum is
27 present for consideration of any other issue.

28 * * *

29 § 1758. Voting rights of shareholders.

30 * * *

1 (b) Procedures for election of directors.--[If the bylaws
2 provide a fair and reasonable procedure for the nomination of
3 candidates for any office, only candidates who have been duly
4 nominated in accordance therewith shall be eligible for
5 election.] Unless otherwise restricted in the bylaws, in
6 elections for directors, voting need not be by ballot unless
7 required by vote of the shareholders before the voting for
8 election of directors begins. The candidates for election as
9 directors receiving the highest number of votes from each class
10 or group of classes, if any, entitled to elect directors
11 separately up to the number of directors to be elected by the
12 class or group of classes shall be elected. If at any meeting of
13 shareholders, directors of more than one class are to be
14 elected, each class of directors shall be elected in a separate
15 election.

16 * * *

17 (e) Advance notice of nominations and other business.--If
18 the bylaws provide a fair and reasonable procedure for the
19 nomination of candidates for election as directors, only
20 candidates who have been duly nominated in accordance therewith
21 shall be eligible for election. If the bylaws impose a fair and
22 reasonable requirement of advance notice of proposals to be made
23 by a shareholder at the annual meeting of the shareholders, only
24 proposals for which advance notice has been properly given may
25 be acted upon at the meeting.

26 § 1759. Voting and other action by proxy.

27 * * *

28 (b) Execution and filing.--Every proxy shall be executed [in
29 writing] or authenticated by the shareholder or by his duly
30 authorized attorney-in-fact and filed with or transmitted to the

1 secretary of the corporation or its designated agent. A
2 shareholder or his duly authorized attorney-in-fact may execute
3 or authenticate a writing or transmit an electronic message
4 authorizing another person to act for him by proxy. A telegram,
5 telex, cablegram, datagram or [similar] other means of
6 electronic transmission from a shareholder or attorney-in-fact,
7 or a photographic, facsimile or similar reproduction of a
8 writing executed by a shareholder or attorney-in-fact:

9 (1) may be treated as properly executed or authenticated
10 for purposes of this subsection; and

11 (2) shall be so treated if it sets forth or utilizes a
12 confidential and unique identification number or other mark
13 furnished by the corporation to the shareholder for the
14 purposes of a particular meeting or transaction.

15 (c) Revocation.--A proxy, unless coupled with an interest,
16 shall be revocable at will, notwithstanding any other agreement
17 or any provision in the proxy to the contrary, but the
18 revocation of a proxy shall not be effective until [written]
19 notice thereof has been given to the secretary of the
20 corporation or its designated agent in writing or by electronic
21 transmission. An unrevoked proxy shall not be valid after three
22 years from the date of its execution, authentication or
23 transmission unless a longer time is expressly provided therein.
24 A proxy shall not be revoked by the death or incapacity of the
25 maker unless, before the vote is counted or the authority is
26 exercised, written notice of the death or incapacity is given to
27 the secretary of the corporation or its designated agent.

28 * * *

29 § 1906. Special treatment of holders of shares of same class or
30 series.

1 (a) General rule.--Except as otherwise restricted in the
2 articles, [an amendment or] a plan may contain a provision
3 classifying the holders of shares of a class or series into one
4 or more separate groups by reference to any facts or
5 circumstances that are not manifestly unreasonable and providing
6 mandatory treatment for shares of the class or series held by
7 particular shareholders or groups of shareholders that differs
8 materially from the treatment accorded other shareholders or
9 groups of shareholders holding shares of the same class or
10 series (including a provision modifying or rescinding rights
11 previously created under this section) if:

12 (1) (i) such provision is specifically authorized by a
13 majority of the votes cast by all shareholders entitled
14 to vote on the [amendment or] plan, as well as by a
15 majority of the votes cast by any class or series of
16 shares any of the shares of which are so classified into
17 groups, whether or not such class or series would
18 otherwise be entitled to vote on the [amendment or] plan;
19 and

20 (ii) the provision voted on specifically enumerates
21 the type and extent of the special treatment authorized;
22 or

23 (2) under all the facts and circumstances, a court of
24 competent jurisdiction finds such special treatment is
25 undertaken in good faith, after reasonable deliberation and
26 is in the best interest of the corporation.

27 (b) Statutory voting rights upon special treatment.--Except
28 as provided in subsection (c), if [an amendment or] a plan
29 contains a provision for special treatment, each group of
30 holders of any outstanding shares of a class or series who are

1 to receive the same special treatment under the [amendment or]
2 plan shall be entitled to vote as a special class in respect to
3 the plan regardless of any limitations stated in the articles or
4 bylaws on the voting rights of any class or series.

5 (c) Dissenters rights upon special treatment.--If any
6 [amendment or] plan contains a provision for special treatment
7 without requiring for the adoption of the [amendment or] plan
8 the statutory class vote required by subsection (b), the holder
9 of any outstanding shares the statutory class voting rights of
10 which are so denied, who objects to the [amendment or] plan and
11 complies with Subchapter D of Chapter 15 (relating to dissenters
12 rights), shall be entitled to the rights and remedies of
13 dissenting shareholders provided in that subchapter.

14 (d) Exceptions.--This section shall not apply to:

15 (1) The creation or issuance of securities, contracts,
16 warrants or other instruments evidencing any shares, option
17 rights, securities having conversion or option rights or
18 obligations authorized by section 2513 (relating to disparate
19 treatment of certain persons).

20 (2) A provision of [an amendment or] a plan that offers
21 to all holders of shares of a class or series the same option
22 to elect certain treatment.

23 (3) [An amendment or] A plan that contains an express
24 provision that this section shall not apply or that fails to
25 contain an express provision that this section shall apply.
26 The shareholders of a corporation that proposes [an amendment
27 or] a plan to which this section is not applicable by reason
28 of this paragraph shall have the remedies contemplated by
29 section 1105 (relating to restriction on equitable relief).

30 (4) A provision of a plan that treats all of the holders

1 of a particular class or series of shares differently from
2 the holders of another class or series. A provision of a plan
3 that treats the holders of a class or series of shares
4 differently from the holders of another class or series of
5 shares shall not constitute a violation of section 1521(d)
6 (relating to authorized shares).

7 (e) Definition.--As used in this section, the term "plan"
8 includes:

9 (1) an amendment of the articles that effects a
10 reclassification of shares, whether or not the amendment is
11 accompanied by a separate plan of reclassification; and

12 (2) a resolution recommending that the corporation
13 dissolve voluntarily adopted under section 1972(a) (relating
14 to proposal of voluntary dissolution).

15 § 1912. Proposal of amendments.

16 * * *

17 (c) Terms of amendment.--The resolution or petition may set
18 forth the manner and basis of reclassifying the shares of the
19 corporation. Any of the terms of a plan of reclassification or
20 other action contained in an amendment may be made dependent
21 upon facts ascertainable outside of the amendment if the manner
22 in which the facts will operate upon the terms of the amendment
23 is set forth in the amendment. Such facts may include, without
24 limitation, actions or events within the control of or
25 determinations made by the corporation or a representative of
26 the corporation.

27 § 1914. Adoption of amendments.

28 * * *

29 (b) Statutory voting rights.--Except as provided in this
30 subpart, the holders of the outstanding shares of a class or

1 series of shares shall be entitled to vote as a class in respect
2 of a proposed amendment regardless of any limitations stated in
3 the articles or bylaws on the voting rights of any class or
4 series if [a proposed] the amendment would:

5 (1) authorize the board of directors to fix and
6 determine the relative rights and preferences, as between
7 series, of any preferred or special class;

8 (2) make any change in the preferences, limitations or
9 special rights (other than preemptive rights or the right to
10 vote cumulatively) of the shares of a class or series adverse
11 to the class or series;

12 (3) authorize a new class or series of shares having a
13 preference as to dividends or assets which is senior to the
14 shares of a class or series; [or]

15 (4) increase the number of authorized shares of any
16 class or series having a preference as to dividends or assets
17 which is senior in any respect to the shares of a class or
18 series; or

19 (5) make the outstanding shares of a class or series
20 redeemable by a method that is not pro rata, by lot or
21 otherwise equitable.

22 [then the holders of the outstanding shares of the class or
23 series shall be entitled to vote as a class in respect to the
24 amendment regardless of any limitations stated in the articles
25 or bylaws on the voting rights of any class or series.]

26 (c) Adoption by board of directors.--Unless otherwise
27 restricted in the articles, an amendment of articles shall not
28 require the approval of the shareholders of the corporation if:

29 (1) shares have not been issued;

30 (2) the amendment is restricted to [any] one or more of

the following:

(i) changing the corporate name;

(ii) providing for perpetual existence;

(iii) reflecting a reduction in authorized shares effected by operation of section 1552(a) (relating to power of corporation to acquire its own shares) and, if appropriate, deleting all references to a class or series of shares that is no longer outstanding; [or]

(iv) adding or deleting a provision authorized by section 1528(f) (relating to uncertificated shares)[.];

or

(v) adding, changing or eliminating the par value of any class or series of shares if the par value of that class or series does not have any substantive effect under the terms of that or any other class or series of shares;

(3) (i) the corporation has only one class or series of voting shares outstanding;

(ii) the corporation does not have any class or series of shares outstanding that is:

(A) convertible into those voting shares;

(B) junior in any way to those voting shares; or

(C) entitled to participate on any basis in distributions with those voting shares; and

(iii) the amendment is effective solely to accomplish one of the following purposes with respect to those voting shares:

[(i)] (A) in connection with effectuating a stock dividend of voting shares on the voting shares, to increase the number of authorized shares [to the extent

1 necessary to permit the board of directors to effectuate
2 a stock dividend in the shares of the corporation] of the
3 voting shares in the same proportion that the voting
4 shares to be distributed in the stock dividend increase
5 the issued voting shares; or

6 [(ii) effectuate a] (B) to split the voting shares
7 and, if desired, increase the number of authorized shares
8 of the voting shares or change the par value of [the
9 authorized] the voting shares, or both, in proportion
10 thereto;

11 (4) to the extent the amendment has not been approved by
12 the shareholders, it restates without change all of the
13 operative provisions of the articles as theretofore amended
14 or as amended thereby; or

15 (5) the amendment accomplishes any combination of
16 purposes specified in this subsection.

17 Whenever a provision of this subpart authorizes the board of
18 directors to take any action without the approval of the
19 shareholders and provides that a statement, certificate, plan or
20 other document relating to such action shall be filed in the
21 Department of State and shall operate as an amendment of the
22 articles, the board upon taking such action may, in lieu of
23 filing the statement, certificate, plan or other document, amend
24 the articles under this subsection without the approval of the
25 shareholders to reflect the taking of such action. An amendment
26 of articles under this subsection shall be deemed adopted by the
27 corporation when it has been adopted by the board of directors
28 pursuant to section 1912 (relating to proposal of amendments).

29 * * *

30 (f) Definition.--As used in this section, the term "voting

1 shares" has the meaning specified in section 2552 (relating to
2 definitions).

3 § 1922. Plan of merger or consolidation.

4 (a) Preparation of plan.--A plan of merger or consolidation,
5 as the case may be, shall be prepared, setting forth:

6 * * *

7 (5) Such other provisions as are deemed desirable.

8 [Any of the terms of the plan may be made dependent upon facts
9 ascertainable outside of the plan if the manner in which the
10 facts will operate upon the terms of the plan is set forth in
11 the plan.]

12 (b) Post-adoption amendment.--A plan of merger or
13 consolidation may contain a provision that the boards of
14 directors of the constituent corporations may amend the plan at
15 any time prior to its effective date, except that an amendment
16 made subsequent to the adoption of the plan by the shareholders
17 of any constituent domestic business corporation shall not
18 change:

19 (1) The amount or kind of shares, obligations, cash,
20 property or rights to be received in exchange for or on
21 conversion of all or any of the shares of the constituent
22 domestic business corporation adversely to the holders of
23 those shares.

24 (2) Any [term] provision of the articles of the
25 surviving or new corporation [to be effected by] as it is to
26 be in effect immediately following consummation of the merger
27 or consolidation, except provisions that may be amended
28 without the approval of the shareholders under section
29 1914(c)(2) (relating to adoption of amendments).

30 (3) Any of the other terms and conditions of the plan if

1 the change would adversely affect the holders of any shares
2 of the constituent domestic business corporation.

3 (c) Proposal.--[Every] Except where the approval of the
4 board of directors is unnecessary under this subchapter, every
5 merger or consolidation shall be proposed in the case of each
6 domestic business corporation by the adoption by the board of
7 directors of a resolution approving the plan of merger or
8 consolidation. Except where the approval of the shareholders is
9 unnecessary under this subchapter, the board of directors shall
10 direct that the plan be submitted to a vote of the shareholders
11 entitled to vote thereon at a regular or special meeting of the
12 shareholders.

13 * * *

14 (e) Reference to outside facts.--Any of the terms of a plan
15 of merger or consolidation may be made dependent upon facts
16 ascertainable outside of the plan if the manner in which the
17 facts will operate upon the terms of the plan is set forth in
18 the plan. Such facts may include, without limitation, actions or
19 events within the control of or determinations made by a party
20 to the plan or a representative of a party to the plan.

21 § 1923. Notice of meeting of shareholders.

22 (a) General rule.--Written notice of the meeting of
23 shareholders that will act on the proposed plan shall be given
24 to each shareholder of record, whether or not entitled to vote
25 thereon, of each domestic business corporation that is a party
26 to the merger or consolidation. There shall be included in, or
27 enclosed with, the notice a copy of the proposed plan or a
28 summary thereof and, if Subchapter D of Chapter 15 (relating to
29 dissenters rights) is applicable to the holders of shares of any
30 class or series, a copy of that subchapter and of section 1930

(relating to dissenters rights) shall be furnished to the holders of shares of that class or series. The notice shall state that a copy of the bylaws of the surviving or new corporation will be furnished to any shareholder on request and without cost.

* * *

§ 1924. Adoption of plan.

* * *

(b) Adoption by board of directors.--

(1) Unless otherwise required by its bylaws, a plan of merger or consolidation shall not require the approval of the shareholders of a constituent domestic business corporation if:

* * *

(ii) immediately prior to the adoption of the plan and at all times thereafter prior to its effective date, another corporation that is a party to the [merger or consolidation] plan owns directly or indirectly 80% or more of the outstanding shares of each class of the constituent corporation; or

* * *

(3) If a merger or consolidation of a subsidiary corporation with a parent corporation is effected pursuant to paragraph (1)(ii), the plan of merger or consolidation shall be deemed adopted by the subsidiary corporation when it has been adopted by the board of the parent corporation and neither approval of the plan by the board of directors of the subsidiary corporation nor execution of articles of merger or consolidation by the subsidiary corporation shall [not] be necessary.

1 (4) (i) Unless other required by its bylaws, a plan of
2 merger or consolidation providing for the merger or
3 consolidation of a domestic business corporation
4 (referred to in this paragraph as the "constituent
5 corporation") with or into a single indirect wholly owned
6 subsidiary (referred to in this paragraph as the
7 "subsidiary corporation") of the constituent corporation
8 shall not require the approval of the shareholders of
9 either the constituent corporation or the subsidiary
10 corporation if all of the provisions of this paragraph
11 are satisfied.

12 (ii) A merger or consolidation under this paragraph
13 shall satisfy the following conditions:

14 (A) The constituent corporation and the
15 subsidiary corporation are the only parties to the
16 merger or consolidation, other than the resulting
17 corporation, if any, in a consolidation (the
18 corporation that survives or results from the merger
19 or consolidation is referred to in this paragraph as
20 the "resulting subsidiary").

21 (B) Each share or fraction of a share of the
22 capital stock of the constituent corporation
23 outstanding immediately prior to the effective time
24 of the merger or consolidation is converted in the
25 merger or consolidation into a share or equal
26 fraction of a share of capital stock of a holding
27 company having the same designations, rights, powers
28 and preferences and the qualifications, limitations
29 and restrictions as the share of stock of the
30 constituent corporation being converted in the merger

1 or consolidation.

2 (C) The holding company and the resulting
3 subsidiary are each domestic business corporations.

4 (D) Immediately following the effective time of
5 the merger or consolidation, the articles of
6 incorporation and bylaws of the holding company are
7 identical to the articles of incorporation and bylaws
8 of the constituent corporation immediately before the
9 effective time of the merger or consolidation, except
10 for changes that could be made without shareholder
11 approval under section 1914(c) (relating to adoption
12 by board of directors).

13 (E) Immediately following the effective time of
14 the merger or consolidation, the resulting subsidiary
15 is a direct or indirect wholly owned subsidiary of
16 the holding company.

17 (F) The directors of the constituent corporation
18 become or remain the directors of the holding company
19 upon the effective time of the merger or
20 consolidation.

21 (G) The board of directors of the constituent
22 corporation has made a good faith determination that
23 the shareholders of the constituent corporation will
24 not recognize gain or loss for United States Federal
25 Income Tax purposes.

26 (iii) As used in this paragraph only, the term
27 "holding company" means a corporation that, from its
28 incorporation until consummation of the merger or
29 consolidation governed by this paragraph, was at all
30 times a direct wholly owned subsidiary of the constituent

1 corporation and whose capital stock is issued in the
2 merger or consolidation.

3 (iv) If the holding company is a registered
4 corporation, the shares of the holding company issued in
5 connection with the merger or consolidation shall be
6 deemed to have been acquired at the time that the shares
7 of the constituent corporation converted in the merger or
8 consolidation were acquired.

9 (5) A plan of merger or consolidation adopted by the
10 board of directors under this subsection without the approval
11 of the shareholders shall not, by itself, create or impair
12 any rights or obligations on the part of any person under
13 section 2538 (relating to approval of transactions with
14 interested shareholders) or under Subchapters E (relating to
15 control transactions), F (relating to business combinations),
16 G (relating to control-share acquisitions), H (relating to
17 disgorgement by certain controlling shareholders following
18 attempts to acquire control), I (relating to severance
19 compensation for employees terminated following certain
20 control-share acquisitions) and J (relating to business
21 combination transactions - labor contracts) of Chapter 25,
22 nor shall it change the standard of care applicable to the
23 directors under Subchapter B of Chapter 17 (relating to
24 fiduciary duty).

25 * * *

26 § 1929. Effect of merger or consolidation.

27 * * *

28 (b) Property rights.--All the property, real, personal and
29 mixed, and franchises of each of the corporations parties to the
30 merger or consolidation, and all debts due on whatever account

1 to any of them, including subscriptions for shares and other
2 choses in action belonging to any of them, shall be deemed to be
3 [transferred to and] vested in and shall belong to the surviving
4 or new corporation, as the case may be, without further action,
5 and the title to any real estate, or any interest therein,
6 vested in any of the corporations shall not revert or be in any
7 way impaired by reason of the merger or consolidation. The
8 surviving or new corporation shall thenceforth be responsible
9 for all the liabilities of each of the corporations so merged or
10 consolidated. Liens upon the property of the merging or
11 consolidating corporations shall not be impaired by the merger
12 or consolidation and any claim existing or action or proceeding
13 pending by or against any of the corporations may be prosecuted
14 to judgment as if the merger or consolidation had not taken
15 place or the surviving or new corporation may be proceeded
16 against or substituted in its place.

17 * * *

18 § 1930. Dissenters rights.

19 * * *

20 (b) Plans adopted by directors only.--Except as otherwise
21 provided pursuant to section 1571(c) (relating to grant of
22 optional dissenters rights), Subchapter D of Chapter 15 shall
23 not apply to any of the shares of a corporation that is a party
24 to a merger or consolidation pursuant to section 1924(b)(1)(i)
25 or (4) (relating to adoption by board of directors).

26 * * *

27 § 1931. Share exchanges.

28 (a) General rule.--All the outstanding shares of one or more
29 classes or series of a domestic business corporation, designated
30 in this section as the exchanging corporation, may, in the

1 manner provided in this section, be acquired by any person,
2 designated in this section as the acquiring person, through an
3 exchange of all the shares pursuant to a plan of exchange. The
4 plan of exchange may also provide for the conversion of any
5 other shares of the exchanging corporation into shares, other
6 securities or obligations of any person or cash, property or
7 rights. The procedure authorized by this section shall not be
8 deemed to limit the power of any person to acquire all or part
9 of the shares or other securities of any class or series of a
10 corporation through a voluntary exchange or otherwise by
11 agreement with the holders of the shares or other securities.

12 (b) Plan of exchange.--A plan of exchange shall be prepared,
13 setting forth:

14 (1) The terms and conditions of the exchange.

15 (2) The manner and basis of exchanging or converting the
16 shares of the exchanging corporation into shares or other
17 securities or obligations of the acquiring person, and, if
18 any of the shares of the exchanging corporation are not to be
19 exchanged or converted solely into shares or other securities
20 or obligations of the acquiring person, the shares or other
21 securities or obligations of any other person or cash,
22 property or rights that the holders of the shares of the
23 exchanging corporation are to receive in exchange for, or
24 upon conversion of, the shares and the surrender of any
25 certificates evidencing them, which securities or
26 obligations, if any, of any other person or cash, property
27 and rights may be in addition to or in lieu of the shares or
28 other securities or obligations of the acquiring person.

29 (3) Any changes desired to be made in the articles of
30 the exchanging corporation, which may include a restatement

of the articles.

(4) Any provisions desired providing special treatment of shares held by any shareholder or group of shareholders as authorized by, and subject to the provisions of, section 1906 (relating to special treatment of holders of shares of same class or series). Notwithstanding subsection (a), a plan that provides special treatment may affect less than all of the outstanding shares of a class or series.

(5) Such other provisions as are deemed desirable.

[Any of the terms of the plan may be made dependent upon facts ascertainable outside of the plan if the manner in which the facts will operate upon the terms of the plan is set forth in the plan.]

(c) Proposal and adoption.--The plan of exchange shall be proposed and adopted and may be amended after its adoption and terminated by the exchanging corporation in the manner provided by this subchapter for the proposal, adoption, amendment and termination of a plan of merger except section 1924(b) (relating to adoption by board of directors). There shall be included in, or enclosed with, the notice of the meeting of shareholders to act on the plan a copy or a summary of the plan and, if Subchapter D of Chapter 15 (relating to dissenters rights) is applicable, a copy of the subchapter and of subsection (d). The holders of any class of shares to be [acquired] exchanged or converted pursuant to the plan of exchange shall be entitled to vote as a class on the plan if they would have been entitled to vote on a plan of merger that affects the class in substantially the same manner as the plan of exchange.

(d) Dissenters rights in share exchanges.--Any holder of shares that are to be [acquired] exchanged or converted pursuant

1 to a plan of exchange who objects to the plan and complies with
2 the provisions of Subchapter D of Chapter 15 shall be entitled
3 to the rights and remedies of dissenting shareholders therein
4 provided, if any. See section 1906(c) (relating to dissenter
5 rights upon special treatment).

6 (e) Articles of exchange.--Upon adoption of a plan of
7 exchange, as provided in this section, articles of exchange
8 shall be executed by the exchanging corporation and shall set
9 forth:

10 (1) The name and, subject to section 109 (relating to
11 name of commercial registered office provider in lieu of
12 registered address), the location of the registered office,
13 including street and number, if any, of the exchanging
14 corporation.

15 (2) If the plan is to be effective on a specified date,
16 the hour, if any, and the month, day and year of the
17 effective date.

18 (3) The manner in which the plan was adopted by the
19 exchanging corporation.

20 (4) Except as provided in section 1901 (relating to
21 omission of certain provisions from filed plans), the plan of
22 exchange.

23 The articles of exchange shall be filed in the Department of
24 State. See [section] sections 134 (relating to docketing
25 statement) and 135 (relating to requirements to be met by filed
26 documents.

27 * * *

28 (i) Reference to outside facts.--Any of the terms of a plan
29 of exchange may be made dependent upon facts ascertainable
30 outside of the plan if the manner in which the facts will

1 operate upon the terms of the plan is set forth in the plan.
2 Such facts may include, without limitation, actions or events
3 within the control of or determinations made by a party to the
4 plan or a representative of a party to the plan.

5 § 1932. Voluntary transfer of corporate assets.

6 * * *

7 (b) Shareholder approval required.--

8 (1) A sale, lease, exchange or other disposition of all,
9 or substantially all, the property and assets, with or
10 without the goodwill, of a business corporation, if not made
11 pursuant to subsection (a) or (d) or to section 1551
12 (relating to distributions to shareholders) or Subchapter D
13 (relating to division), may be made only pursuant to a plan
14 of asset transfer[.] in the manner provided in this
15 subsection. A corporation selling, leasing or otherwise
16 disposing of all, or substantially all, its property and
17 assets is referred to in this subsection and in subsection
18 (c) as the "transferring corporation."

19 (2) The property or assets of a direct or indirect
20 subsidiary corporation that is controlled by a parent
21 corporation shall also be deemed the property or assets of
22 the parent corporation for the purposes of this subsection
23 and of subsection (c). A merger or consolidation to which
24 such a subsidiary corporation is a party and in which a third
25 party acquires direct or indirect ownership of the property
26 or assets of the subsidiary corporation constitutes an "other
27 disposition" of the property or assets of the parent
28 corporation within the meaning of that term as used in this
29 section.

30 (3) The plan of asset transfer shall set forth the terms

1 and conditions of the sale, lease, exchange or other
2 disposition or may authorize the board of directors to fix
3 any or all of the terms and conditions, including the
4 consideration to be received by the corporation therefor. The
5 plan may provide for the distribution to the shareholders of
6 some or all of the consideration to be received by the
7 corporation, including provisions for special treatment of
8 shares held by any shareholder or group of shareholders as
9 authorized by, and subject to the provisions of, section 1906
10 (relating to special treatment of holders of shares of same
11 class or series). It shall not be necessary for the person
12 acquiring the property or assets of the transferring
13 corporation to be a party to the plan. Any of the terms of
14 the plan may be made dependent upon facts ascertainable
15 outside of the plan if the manner in which the facts will
16 operate upon the terms of the plan is set forth in the plan.
17 Such facts may include, without limitation, actions or events
18 within the control of or determinations made by the
19 corporation or a representative of the corporation.

20 (4) The plan of asset transfer shall be proposed and
21 adopted, and may be amended after its adoption and
22 terminated, by [a business] the transferring corporation in
23 the manner provided in this subchapter for the proposal,
24 adoption, amendment and termination of a plan of merger,
25 except section 1924(b) (relating to adoption by board of
26 directors). The procedures of this subchapter shall not be
27 applicable to the person acquiring the property or assets of
28 the transferring corporation. There shall be included in, or
29 enclosed with, the notice of the meeting of the shareholders
30 of the transferring corporation to act on the plan a copy or

1 a summary of the plan and, if Subchapter D of Chapter 15
2 (relating to dissenters rights) is applicable, a copy of the
3 subchapter and of subsection (c).

4 (5) In order to make effective the plan of asset
5 transfer so adopted, it shall not be necessary to file any
6 articles or other documents in the Department of State.

7 (c) Dissenters rights in asset transfers.--

8 (1) If a shareholder of a transferring corporation that
9 adopts a plan of asset transfer objects to the plan and
10 complies with Subchapter D of Chapter 15, the shareholder
11 shall be entitled to the rights and remedies of dissenting
12 shareholders therein provided, if any.

13 (2) Paragraph (1) shall not apply to a sale pursuant to
14 an order of court having jurisdiction in the premises or a
15 sale [for money on terms requiring] pursuant to a plan of
16 asset transfer that requires that all or substantially all of
17 the net proceeds of sale be distributed to the shareholders
18 in accordance with their respective interests within one year
19 after the date of sale or to a liquidating trust.

20 * * *

21 § 1952. Proposal and adoption of plan of division.

22 (a) Preparation of plan.--A plan of division shall be
23 prepared, setting forth:

24 (1) The terms and conditions of the division, including
25 the manner and basis of:

26 (i) The reclassification of the shares of the
27 surviving corporation, if there be one, and, if any of
28 the shares of the dividing corporation are not to be
29 converted solely into shares or other securities or
30 obligations of one or more of the resulting corporations,

1 the shares or other securities or obligations of any
2 other person, or cash, property or rights that the
3 holders of such shares are to receive in exchange for or
4 upon conversion of such shares, and the surrender of any
5 certificates evidencing them, which securities or
6 obligations, if any, of any other person or cash,
7 property or rights may be in addition to or in lieu of
8 shares or other securities or obligations of one or more
9 of the resulting corporations.

10 (ii) The disposition of the shares and other
11 securities or obligations, if any, of the new corporation
12 or corporations resulting from the division.

13 (2) A statement that the dividing corporation will, or
14 will not, survive the division.

15 (3) Any changes desired to be made in the articles of
16 the surviving corporation, if there be one, including a
17 restatement of the articles.

18 (4) The articles of incorporation required by subsection
19 (b).

20 (5) Any provisions desired providing special treatment
21 of shares held by any shareholder or group of shareholders as
22 authorized by, and subject to the provisions of, section 1906
23 (relating to special treatment of holders of shares of same
24 class or series).

25 (6) Such other provisions as are deemed desirable.

26 [Any of the terms of the plan may be made dependent upon facts
27 ascertainable outside of the plan if the manner in which the
28 facts will operate upon the terms of the plan is set forth in
29 the plan.]

30 * * *

1 (g) [Action by] Rights of holders of indebtedness.--[Unless
2 otherwise provided by an indenture or other contract by which

3 the dividing corporation is bound, a plan of division shall not

4 require the approval of the holders of any debt securities or

5 other obligations of the dividing corporation or of any

6 representative of the holders, if the transfer of assets

7 effected by the division, if effected by means of a sale, lease,

8 exchange or other disposition, and any related distribution,

9 would not require the approval of the holders or representatives

10 thereof.] If any debt securities, notes or similar evidences of
11 indebtedness for money borrowed, whether secured or unsecured,
12 indentures or other contracts were issued, incurred or executed
13 by the dividing corporation before (the Legislative Reference
14 Bureau shall insert here the effective date of the amendments of
15 this section) and have not been amended subsequent to that date,
16 the liability of the dividing corporation thereunder shall not
17 be affected by the division nor shall the rights of the obligees
18 thereunder be impaired by the division, and each of the
19 resulting corporations may be proceeded against or substituted
20 in place of the dividing corporation as joint and several
21 obligors on such liability, regardless of any provision of the
22 plan of division apportioning the liabilities of the dividing
23 corporations.

24 * * *

25 (i) Reference to outside facts.--Any of the terms of a plan
26 of division may be made dependent upon facts ascertainable
27 outside of the plan if the manner in which the facts will
28 operate upon the terms of the plan is set forth in the plan.
29 Such facts may include, without limitation, actions or events
30 within the control of or determinations made by the dividing

1 corporation or a representative of the dividing corporation.

2 § 1953. Division without shareholder approval.

3 (a) General rule.--Unless otherwise restricted by its bylaws
4 or required by section 1952(f) (relating to action by holders of
5 preferred or special shares), a plan of division that does not
6 alter the state of incorporation of a business corporation,
7 provide for special treatment nor amend in any respect the
8 provisions of its articles (except amendments which under
9 section 1914(c) (relating to adoption by board of directors) may
10 be made without shareholder action) shall not require the
11 approval of the shareholders of the corporation if:

12 (1) the dividing corporation has only one class of
13 shares outstanding and the shares and other securities, if
14 any, of each corporation resulting from the plan are
15 distributed pro rata to the shareholders of the dividing
16 corporation;

17 (2) the dividing corporation survives the division and
18 all the shares and other securities and obligations, if any,
19 of all new corporations resulting from the plan are owned
20 solely by the surviving corporation; or

21 (3) the [transfers] allocation of assets among the
22 resulting corporations effected by the division, if effected
23 by means of a sale, lease, exchange or other disposition,
24 would not require the approval of shareholders under section
25 1932(b) (relating to shareholder approval required).

26 (b) Limitation.--A plan of division adopted by the board of
27 directors under this section without the approval of the
28 shareholders shall not, by itself, create or impair any rights
29 or obligations on the part of any person under section 2538
30 (relating to approval of transactions with interested

1 shareholders) or under Subchapters E (relating to control
2 transactions), F (relating to business combinations), G
3 (relating to control-share acquisitions), H (relating to
4 disgorgement by certain controlling shareholders following
5 attempts to acquire control), I (relating to severance
6 compensation for employees terminated following certain control-
7 share acquisitions) and J (relating to business combination
8 transactions - labor contracts) of Chapter 25, nor shall it
9 change the standard of care applicable to the directors under
10 Subchapter B of Chapter 17 (relating to fiduciary duty).

11 § 1955. Filing of articles of division.

12 (a) General rule.--The articles of division, and the
13 certificates or statement, if any, required by section 139
14 (relating to tax clearance of certain fundamental transactions)
15 shall be filed in the Department of State.

16 (b) Cross [reference] references.--See [section] sections
17 134 (relating to docketing statement) and 135 (relating to
18 requirements to be met by filed documents).

19 § 1957. Effect of division.

20 * * *

21 (b) Property rights; allocations of assets and
22 liabilities.--

23 (1) (i) All the property, real, personal and mixed, and
24 franchises of the dividing corporation, and all debts due
25 on whatever account to it, including subscriptions for
26 shares and other choses in action belonging to it, shall
27 (except as otherwise provided in paragraph (2)), to the
28 extent [transfers] allocations of assets are contemplated
29 by the plan of division, be deemed without further action
30 to be [transferred] allocated to and vested in the

1 resulting corporations on such a manner and basis and
2 with such effect as is specified in the plan, or per
3 capita among the resulting corporations, as tenants in
4 common, if no specification is made in the plan, and the
5 title to any real estate, or interest therein, vested in
6 any of the corporations shall not revert or be in any way
7 impaired by reason of the division.

8 (ii) Upon the division becoming effective, the
9 resulting corporations shall each thenceforth be
10 responsible as separate and distinct corporations only
11 for such liabilities as each corporation may undertake or
12 incur in its own name but shall be liable for the
13 liabilities of the dividing corporation in the manner and
14 on the basis provided in subparagraphs (iv) and (v).

15 (iii) Liens upon the property of the dividing
16 corporation shall not be impaired by the division.

17 (iv) [One] To the extent allocations of liabilities
18 are contemplated by the plan of division, the liabilities
19 of the dividing corporation shall be deemed without
20 further action to be allocated to and become the
21 liabilities of the resulting corporations on such a
22 manner and basis and with such effect as is specified in
23 the plan; and one or more, but less than all, of the
24 resulting corporations shall be free of the liabilities
25 of the dividing corporation to the extent, if any,
26 specified in the plan, if in either case:

27 (A) no fraud [of corporate creditors, or of] on
28 minority shareholders or shareholders without voting
29 rights or violation of law shall be effected thereby,
30 and [if applicable provisions of law are complied

1 with.]

2 (B) the plan does not constitute a fraudulent
3 transfer under 12 Pa.C.S. Ch. 51 (relating to
4 fraudulent transfers).

5 (v) If the conditions in subparagraph (iv) for
6 freeing one or more of the resulting corporations from
7 the liabilities of the dividing corporation, or for
8 allocating some or all of the liabilities of the dividing
9 corporation, are not satisfied, the liabilities of the
10 dividing corporation as to which those conditions are not
11 satisfied shall not be affected by the division nor shall
12 the rights of creditors [thereof or of any person dealing
13 with the corporation] thereunder be impaired by the
14 division and any claim existing or action or proceeding
15 pending by or against the corporation with respect to
16 those liabilities may be prosecuted to judgment as if the
17 division had not taken place, or the resulting
18 corporations may be proceeded against or substituted in
19 [its] place of the dividing corporation as joint and
20 several obligors on [such liability] those liabilities,
21 regardless of any provision of the plan of division
22 apportioning the liabilities of the dividing corporation.

23 (vi) The conditions in subparagraph (iv) for freeing
24 one or more of the resulting corporations from the
25 liabilities of the dividing corporation and for
26 allocating some or all of the liabilities of the dividing
27 corporation shall be conclusively deemed to have been
28 satisfied if the plan of division has been approved by
29 the Department of Banking, the Insurance Department or
30 the Pennsylvania Public Utility Commission in a final

1 order issued after (the Legislative Reference Bureau
2 shall insert here the effective date of the amendments of
3 this section) that has become not subject to further
4 appeal.

5 (2) (i) The [transfer] allocation of any fee or
6 freehold interest or leasehold having a remaining term of
7 30 years or more in any tract or parcel of real property
8 situate in this Commonwealth owned by a dividing
9 corporation (including property owned by a foreign
10 business corporation dividing solely under the law of
11 another jurisdiction) to a new corporation resulting from
12 the division shall not be effective until one of the
13 following documents is filed in the office for the
14 recording of deeds of the county, or each of them, in
15 which the tract or parcel is situated:

16 (A) A deed, lease or other instrument of
17 confirmation describing the tract or parcel.

18 (B) A duly executed duplicate original copy of
19 the articles of division.

20 (C) A copy of the articles of division certified
21 by the Department of State.

22 (D) A declaration of acquisition setting forth
23 the value of real estate holdings in such county of
24 the corporation as an acquired company.

25 (ii) The provisions of 75 Pa.C.S. § 1114 (relating
26 to transfer of vehicle by operation of law) shall not be
27 applicable to [a transfer] an allocation of ownership of
28 any motor vehicle, trailer or semitrailer [from a
29 dividing corporation] to a new corporation under this
30 section or under a similar law of any other jurisdiction

1 but any such [transfer] allocation shall be effective
2 only upon compliance with the requirements of 75 Pa.C.S.
3 § 1116 (relating to issuance of new certificate following
4 transfer).

5 (3) It shall not be necessary for a plan of division to
6 list each individual asset or liability of the dividing
7 corporation to be allocated to a new corporation so long as
8 those assets and liabilities are described in a reasonable
9 manner.

10 (4) Each new corporation shall hold any assets and
11 liabilities allocated to it as the successor to the dividing
12 corporation, and those assets and liabilities shall not be
13 deemed to have been assigned to the new corporation in any
14 manner, whether directly or indirectly or by operation of
15 law.

16 * * *

17 (h) Conflict of laws.--It is the intent of the General
18 Assembly that:

19 (1) The effect of a division of a domestic business
20 corporation shall be governed solely by the laws of this
21 Commonwealth and any other jurisdiction under the laws of
22 which any of the resulting corporations is incorporated.

23 (2) The effect of a division on the assets and
24 liabilities of the dividing corporation shall be governed
25 solely by the laws of this Commonwealth and any other
26 jurisdiction under the laws of which any of the resulting
27 corporations is incorporated.

28 (3) The validity of any allocations of assets or
29 liabilities by a plan of division of a domestic business
30 corporation, regardless of whether or not any of the new

corporations is a foreign business corporation, shall be governed solely by the laws of this Commonwealth.

(4) In addition to the express provisions of this subsection, this subchapter shall otherwise generally be granted the protection of full faith and credit under the Constitution of the United States.

§ 1962. Proposal and adoption of plan of conversion.

(a) Preparation of plan.--A plan of conversion shall be prepared, setting forth:

(1) The terms and conditions of the conversion.

(2) A restatement of the articles of the resulting corporation, which articles shall comply with the requirements of this part relating to nonprofit corporations.

(3) Any provisions desired providing special treatment of shares held by any shareholder or group of shareholders as authorized by, and subject to the provisions of, section 1906 (relating to special treatment of holders of shares of same class or series).

(4) Such other provisions as are deemed desirable.

[Any of the terms of the plan may be made dependent upon facts ascertainable outside of the plan if the manner in which the facts will operate upon the terms of the plan is set forth in the plan.]

* * *

(d) Reference to outside facts.--Any of the terms of a plan of conversion may be made dependent upon facts ascertainable outside of the plan if the manner in which the facts will operate upon the terms of the plan is set forth in the plan. Such facts may include, without limitation, actions or events within the control of or determinations made by the corporation

1 or a representative of the corporation.

2 § 1972. Proposal of voluntary dissolution.

3 (a) General rule.--Any business corporation that has
4 commenced business may dissolve voluntarily in the manner
5 provided in this subchapter and wind up its affairs in the
6 manner provided in section 1975 (relating to predissolution
7 provision for liabilities) or Subchapter H (relating to
8 postdissolution provision for liabilities). Voluntary
9 dissolution shall be proposed by the adoption by the board of
10 directors of a resolution recommending that the corporation be
11 dissolved voluntarily. The resolution shall contain a statement
12 either that the dissolution shall proceed under section 1975 or
13 that the dissolution shall proceed under Subchapter H. The
14 resolution may set forth provisions for the distribution to
15 shareholders of any surplus remaining after paying or providing
16 for all liabilities of the corporation, including provisions for
17 special treatment of shares held by any shareholder or group of
18 shareholders as authorized by, and subject to the provisions of,
19 section 1906 (relating to special treatment of holders of shares
20 of same class or series).

21 (b) Submission to shareholders.--The board of directors
22 shall direct that the [question of] resolution recommending
23 dissolution be submitted to a vote of the shareholders of the
24 corporation entitled to vote thereon at a regular or special
25 meeting of the shareholders.

26 * * *

27 § 1973. Notice of meeting of shareholders.

28 (a) General rule.--Written notice of the meeting of
29 shareholders that will consider the [advisability of voluntarily
30 dissolving a] resolution recommending dissolution of the

1 business corporation shall be given to each shareholder of
2 record entitled to vote thereon and the purpose shall be
3 included in the notice of the meeting.

4 * * *

5 § 1975. Predissolution provision for liabilities.

6 (a) Powers of board.--The board of directors of a business
7 corporation that has elected to proceed under this section shall
8 have full power to wind up and settle the affairs of [a
9 business] the corporation in accordance with this section prior
10 to filing articles of dissolution in accordance with section
11 1977 (relating to articles of dissolution).

12 (b) Notice to creditors and taxing authorities.--After the
13 approval by the shareholders of the [proposal] resolution
14 recommending that the corporation dissolve voluntarily, the
15 corporation shall immediately cause notice of the winding up
16 proceedings to be officially published and to be mailed by
17 certified or registered mail to each known creditor and claimant
18 and to each municipal corporation in which [its registered
19 office or principal] it has a place of business in this
20 Commonwealth [is located].

21 (c) Winding up and distribution.--The corporation shall, as
22 speedily as possible, proceed to collect all sums due it,
23 convert into cash all corporate assets the conversion of which
24 into cash is required to discharge its liabilities and, out of
25 the assets of the corporation, discharge or make adequate
26 provision for the discharge of all liabilities of the
27 corporation, according to their respective priorities. Any
28 surplus remaining after paying or providing for all liabilities
29 of the corporation shall be distributed to the shareholders
30 according to their respective rights and preferences. See

1 section 1972(a) (relating to proposal of voluntary dissolution).

2 § 1976. Judicial supervision of proceedings.

3 A business corporation that has elected to proceed under
4 section 1975 (relating to predissolution provision for
5 liabilities), at any time during the winding up proceedings, may
6 apply to the court to have the proceedings continued under the
7 supervision of the court and thereafter the proceedings shall
8 continue under the supervision of the court as provided in
9 Subchapter G (relating to involuntary liquidation and
10 dissolution).

11 § 1977. Articles of dissolution.

12 (a) General rule.--Articles of dissolution and the
13 certificates or statement required by section 139 (relating to
14 tax clearance of certain fundamental transactions) shall be
15 filed in the Department of State when:

16 (1) all liabilities of the business corporation have
17 been discharged, or adequate provision has been made
18 therefor, in accordance with section 1975 (relating to
19 predissolution provision for liabilities), and all of the
20 remaining assets of the corporation have been distributed as
21 provided in section 1975 (or in case its assets are not
22 sufficient to discharge its liabilities, when all the assets
23 have been fairly and equitably applied, as far as they will
24 go, to the payment of such liabilities); or

25 (2) an election to proceed under Subchapter H (relating
26 to postdissolution provision for liabilities) has been made.
27 [See section 134 (relating to docketing statement).]

28 (b) Contents of articles.--The articles of dissolution shall
29 be executed by the corporation and shall set forth:

30 * * *

1 (5) A statement that:

2 (i) [that] all liabilities of the corporation have
3 been discharged or that adequate provision has been made
4 therefor; [or]

5 (ii) [that] the assets of the corporation are not
6 sufficient to discharge its liabilities, and that all the
7 assets of the corporation have been fairly and equitably
8 applied, as far as they will go, to the payment of such
9 liabilities[. An election by]; or

10 (iii) the corporation has elected to proceed under
11 Subchapter H [shall constitute the making of adequate
12 provision for the liabilities of the corporation,
13 including any judgment or decree that may be obtained
14 against the corporation in any pending action or
15 proceeding].

16 * * *

17 (7) [A] In the case of a corporation that has not
18 elected to proceed under Subchapter H, a statement that no
19 actions or proceedings are pending against the corporation in
20 any court, or that adequate provision has been made for the
21 satisfaction of any judgment or decree that may be obtained
22 against the corporation in each pending action or proceeding.

23 (8) [A] In the case of a corporation that has not
24 elected to proceed under Subchapter H, a statement that
25 notice of the winding-up proceedings of the corporation was
26 mailed by certified or registered mail to each known creditor
27 and claimant and to each municipal corporation in which the
28 [registered office or principal place of business of the]
29 corporation has a place of business in this Commonwealth [is
30 located].

1 * * *

2 (d) Cross references.--See sections 134 (relating to
3 docketing statement) and 135 (relating to requirements to be met
4 by filed documents).

5 § 1978. Winding up of corporation after dissolution.

6 * * *

7 (b) Standard of care of directors and officers.--The
8 dissolution of the corporation shall not subject its directors
9 or officers to standards of conduct different from those
10 prescribed by or pursuant to Chapter 17 (relating to officers,
11 directors and shareholders). Directors of a dissolved
12 corporation who have complied with section 1975 (relating to
13 predissolution provision for liabilities) or Subchapter H
14 (relating to postdissolution provision for liabilities) shall
15 not be personally liable to the creditors of the dissolved
16 corporation.

17 § 1979. Survival of remedies and rights after dissolution.

18 (a) General rule.--The dissolution of a business
19 corporation, either under this subchapter or under Subchapter G
20 (relating to involuntary liquidation and dissolution) or by
21 expiration of its period of duration or otherwise, shall not
22 eliminate nor impair any remedy available to or against the
23 corporation or its directors, officers or shareholders for any
24 right or claim existing, or liability incurred, prior to the
25 dissolution, if an action or proceeding thereon is brought on
26 behalf of:

27 (1) the corporation within the time otherwise limited by
28 law; or

29 (2) any other person before or within two years after
30 the date of the dissolution or within the time otherwise

1 limited by this subpart or other provision of law, whichever
2 is less. See sections 1987 (relating to proof of claims),
3 1993 (relating to acceptance or rejection of matured claims)
4 and 1994 (relating to disposition of unmatured claims).

5 [The actions or proceedings may be prosecuted against and
6 defended by the corporation in its corporate name.]

7 * * *

8 (e) Conduct of actions.--An action or proceeding may be
9 prosecuted against and defended by a dissolved corporation in
10 its corporate name.

11 § 1980. Dissolution by domestication.

12 Whenever a domestic business corporation has domesticated
13 itself under the laws of another jurisdiction by action similar
14 to that provided by section 4161 (relating to domestication) and
15 has authorized that action by the vote required by this
16 subchapter for the approval of a proposal that the corporation
17 dissolve voluntarily, the corporation may surrender its charter
18 under the laws of this Commonwealth by filing in the Department
19 of State articles of dissolution under this subchapter
20 containing the statement specified by section [1977(a)(1)]
21 1977(b)(1) through (4) (relating to [preparation of articles].]
22 articles of dissolution). If the corporation as domesticated in
23 the other jurisdiction qualifies to do business in this
24 Commonwealth either prior to or simultaneously with the filing
25 of the articles of dissolution under this section, the
26 corporation shall not be required to file with the articles of
27 dissolution the tax clearance certificates that would otherwise
28 be required by section 139 (relating to tax clearance of certain
29 fundamental transactions).

30 § 1989. Articles of involuntary dissolution.

1 (a) General rule.--In a proceeding under this subchapter,
2 the court shall enter an order dissolving the business
3 corporation when the costs and expenses of the proceeding and
4 all liabilities of the corporation have been discharged, and all
5 of its remaining assets have been distributed to its
6 shareholders or, in case its assets are not sufficient to
7 discharge such costs, expenses and liabilities, when all the
8 assets have been applied, as far as they will go, to the payment
9 of such costs, expenses and liabilities. See section 139(b)
10 (relating to tax clearance in judicial proceedings).

11 (b) Filing.--After entry of an order of dissolution, the
12 office of the clerk of the court of common pleas shall prepare
13 and execute articles of dissolution substantially in the form
14 provided by section 1977 (relating to articles of dissolution),
15 attach thereto a certified copy of the order and transmit the
16 articles and attached order to the Department of State. [A
17 certificate or statement provided for by section 139 (relating
18 to tax clearance of certain fundamental transactions) shall not
19 be required, and the] The department shall not charge a fee in
20 connection with the filing of articles of dissolution under this
21 section. See [section] sections 134 (relating to docketing
22 statement) and 135 (relating to requirements to be met by filed
23 documents).

24 * * *

25 § 1991.1. Authority of board of directors.

26 (a) General rule.--The board of directors of a business
27 corporation that has elected to proceed under this subchapter
28 shall have full power to wind up and settle the affairs of the
29 corporation in accordance with this subchapter both prior to and
30 after the filing of articles of dissolution in accordance with

1 section 1977 (relating to articles of dissolution).

2 (b) Winding up.--The corporation shall, as speedily as
3 possible, proceed to comply with the requirements of this
4 subchapter while simultaneously collecting all sums due it and
5 converting into cash all corporate assets, the conversion of
6 which into cash is required to make adequate provision for its
7 liabilities.

8 § 1992. Notice to claimants.

9 * * *

10 (c) Publication and service of notices.--

11 (1) The notices required by this section shall be
12 officially published at least once a week for two consecutive
13 weeks and, in the case of a corporation having \$10,000,000 or
14 more in total assets at the time of its dissolution, at least
15 once in all editions of a daily newspaper with a national
16 circulation.

17 (2) Concurrently with or preceding the publication, the
18 corporation or successor entity shall send a copy of the
19 notice by certified or registered mail, return receipt
20 requested, to each:

21 (i) known creditor or claimant;

22 (ii) holder of a claim described in subsection (b);

23 and

24 (iii) municipal corporation in which [the registered
25 office or principal] a place of business of the
26 corporation in this Commonwealth was located at the time
27 of filing the articles of dissolution in the department.

28 * * *

29 § 1997. Payments and distributions.

30 * * *

1 (b) Disposition.--The claims and liabilities shall be paid
2 in full and any provision for payment shall be made in full if
3 there are sufficient assets. If there are insufficient assets,
4 the claims and liabilities shall be paid or provided for in
5 order of their priority, and, among claims of equal priority,
6 ratably to the extent of funds legally available therefor. Any
7 remaining assets shall be distributed to the shareholders of the
8 corporation according to their respective rights and
9 preferences, except that the distribution shall not be made less
10 than 60 days after the last notice of rejection, if any, was
11 given under section 1993 (relating to acceptance or rejection of
12 matured claims). See section 1972(a) (relating to proposal of
13 voluntary dissolution).

14 * * *

15 [(d) Liability of directors.--Directors of a dissolved
16 corporation or governing persons of a successor entity that has
17 complied with this section shall not be personally liable to the
18 claimants of the dissolved corporation.]

19 § 2521. CALL OF SPECIAL MEETINGS OF SHAREHOLDERS.

<—

20 (A) GENERAL RULE.--THE SHAREHOLDERS OF A REGISTERED
21 CORPORATION SHALL NOT BE ENTITLED BY STATUTE TO CALL A SPECIAL
22 MEETING OF THE SHAREHOLDERS.

23 (B) EXCEPTION.--SUBSECTION (A) SHALL NOT APPLY TO [THE CALL
24 OF A]:

25 (1) THE CALL OF A SPECIAL MEETING BY AN INTERESTED
26 SHAREHOLDER (AS DEFINED IN SECTION 2553 (RELATING TO
27 INTERESTED SHAREHOLDER)) FOR THE PURPOSE OF APPROVING A
28 BUSINESS COMBINATION UNDER SECTION 2555(3) OR (4) (RELATING
29 TO REQUIREMENTS RELATING TO CERTAIN BUSINESS COMBINATIONS).

30 (2) THE SHAREHOLDERS OF A REGISTERED CORPORATION WHOSE

ARTICLES PERMIT LESS THAN UNANIMOUS WRITTEN CONSENT TO
AUTHORIZE AN ACTION AND WHICH IS THE SUBJECT OF A CONSENT
SOLICITATION AS OF THE EFFECTIVE DATE OF THIS PARAGRAPH, BUT
WHICH DUE TO THE PASSAGE OF ANY AMENDMENT TO THIS SUBCHAPTER,
PREEMPTS THE LESS THAN UNANIMOUS WRITTEN CONSENT PROVISIONS
OF THE SHAREHOLDERS WITHIN ITS ARTICLES.

§ 2524. CONSENT OF SHAREHOLDERS IN LIEU OF MEETING. <—

(A) GENERAL RULE.--AN ACTION MAY BE AUTHORIZED BY THE
SHAREHOLDERS OF A REGISTERED CORPORATION WITHOUT A MEETING BY
LESS THAN UNANIMOUS WRITTEN CONSENT ONLY IF ALL OF THE FOLLOWING
PARAGRAPHS APPLY:

(1) THE ACTION IS PERMITTED BY ITS ARTICLES.

(2) ANY OF THE FOLLOWING SUBPARAGRAPHS APPLY:

(I) THE ACTION HAS BEEN APPROVED BY THE BOARD OF
DIRECTORS.

(II) THERE IS NOT, AT THE TIME THE ACTION IS PENDING
FOR AUTHORIZATION BY THE SHAREHOLDERS, A "CONTROLLING
PERSON OR GROUP," AS DEFINED IN SECTION 2573 (RELATING TO
DEFINITIONS), THAT IS POTENTIALLY SUBJECT TO PROFIT
RECOVERY UNDER SECTION 2575 (RELATING TO OWNERSHIP BY
CORPORATION OF PROFITS RESULTING FROM CERTAIN
TRANSACTIONS), REGARDLESS OF WHETHER THAT CONTROLLING
PERSON OR GROUP, AT THAT TIME, OWNS ANY EQUITY SECURITY
OF THE CORPORATION.

(III) THE ACTION WAS EFFECTIVE PRIOR TO SEPTEMBER
29, 1998.

THIS PARAGRAPH (2) SHALL EXPIRE 12 MONTHS FROM THE <—
DATE THIS THE PARAGRAPH TAKES EFFECT. <—

* * *

§ 2902. Definitions and index of definitions.

1 (a) Definitions.--The following words and phrases when used
2 in this chapter shall have the meanings given to them in this
3 section unless the context clearly indicates otherwise:

4 "Disqualified person." [A] The term "disqualified person" as
5 used in this chapter means a licensed person who for any reason
6 is or becomes legally disqualified (temporarily or permanently)
7 to render the same professional services that the particular
8 professional corporation of which he is an officer, director,
9 shareholder or employee is or was rendering.

10 ["Licensed person." Any natural person who is duly licensed
11 or admitted to practice his profession by a court, department,
12 board, commission or other agency of this Commonwealth or
13 another jurisdiction to render a professional service that is or
14 will be rendered by the professional corporation of which he is,
15 or intends to become, an officer, director, shareholder,
16 employee or agent.

17 "Profession." Includes the performance of any type of
18 personal service to the public that requires as a condition
19 precedent to the performance of the service the obtaining of a
20 license or admission to practice or other legal authorization,
21 including all personal services that prior to the enactment of
22 the act of July 9, 1970 (P.L.461, No.160), known as the
23 Professional Corporation Law, could not lawfully be rendered by
24 means of a corporation. By way of example, and without limiting
25 the generality of the foregoing, the term includes for the
26 purposes of this chapter personal services rendered as an
27 architect, chiropractor, dentist, funeral director, osteopath,
28 podiatrist, physician, professional engineer, veterinarian,
29 certified public accountant or surgeon and, except as otherwise
30 prescribed by general rules, an attorney at law. Except as

1 otherwise expressly provided by law, the definition specified in
2 this paragraph shall be applicable to this chapter only and
3 shall not affect the interpretation of any other statute or any
4 local zoning ordinance or other official document heretofore or
5 hereafter enacted or promulgated.

6 "Professional services." Any type of services that may be
7 rendered by the member of any profession within the purview of
8 his profession.]

9 (b) Index of other definitions.--Other definitions applying
10 to this chapter and the sections in which they appear are:

11 "Licensed person." Section 102 (relating to definitions).

12 "Profession." Section 102.

13 "Professional services." Section 102.

14 § 2904. Election of an existing business corporation to become
15 a professional corporation.

16 * * *

17 (b) Procedure.--The amendment shall be adopted in accordance
18 with the requirements of Subchapter B of Chapter 19 (relating to
19 amendment of articles) [except that the amendment must be
20 approved by the unanimous consent of all shareholders of the
21 corporation regardless of any limitations on voting rights
22 stated in the articles or bylaws]. If any shareholder of a
23 business corporation that proposes to amend its articles to
24 become a professional corporation objects to that amendment and
25 complies with the provisions of Subchapter D of Chapter 15
26 (relating to dissenters rights), the shareholder shall be
27 entitled to the rights and remedies of dissenting shareholders
28 therein provided, if any.

29 § 2922. Stated purposes.

30 * * *

1 (b) Additional powers.--A professional corporation may be [a
2 partner in or a shareholder] an equity owner of a partnership
3 [or], limited liability company, corporation or other
4 association engaged in the business of rendering the
5 professional service or services for which the professional
6 corporation was incorporated.

7 § 2923. Issuance and retention of shares.

8 (a) General rule.--Except as otherwise provided by a
9 statute, rule or regulation applicable to a particular
10 profession, all of the ultimate beneficial owners of shares in a
11 professional corporation [may be beneficially owned, directly or
12 indirectly, only by one or more] shall be licensed persons and
13 any issuance or transfer of shares in violation of this
14 restriction shall be void. A shareholder of a professional
15 corporation shall not enter into a voting trust, proxy or any
16 other arrangement vesting another person (other than [another
17 licensed] a person who is qualified to be a direct or indirect
18 shareholder of the same corporation) with the authority to
19 exercise the voting power of any or all of his shares, and any
20 such purported voting trust, proxy or other arrangement shall be
21 void.

22 (b) Ownership by estate.--Unless a lesser period of time is
23 provided in a bylaw [of the corporation] adopted by the
24 shareholders or in a written agreement among the shareholders of
25 the corporation, the estate of a deceased shareholder may
26 continue to hold shares of the professional corporation for a
27 reasonable period of administration of the estate, but the
28 personal representative of the estate shall not by reason of the
29 retention of shares be authorized to participate in any
30 decisions concerning the rendering of professional service.

1 * * *

2 § 3133. Notice of meetings of members of mutual insurance
3 companies.

4 (a) General rule.--Unless otherwise restricted in the
5 bylaws, persons authorized or required to give notice of an
6 annual meeting of members of a mutual insurance company for the
7 election of directors or of a meeting of members of a mutual
8 insurance company called for the purpose of considering [an]
9 amendment of the articles or bylaws, or both, of the corporation
10 may, in lieu of any written notice of meeting of members
11 required to be given by this subpart, give notice of such
12 meeting by causing notice of such meeting to be officially
13 published. Such notice shall be published each week for at
14 least:

15 (1) Three successive weeks, in the case of an annual
16 meeting.

17 (2) Four successive weeks, in the case of a meeting to
18 consider [an] amendment of the articles or bylaws, or both.

19 * * *

20 § 4123. Requirements for foreign corporation names.

21 * * *

22 (b) Exceptions.--

23 (1) The provisions of section 1303(b) (relating to
24 duplicate use of names) shall not prevent the issuance of a
25 certificate of authority to a foreign business corporation
26 setting forth a name that is [confusingly similar to] not
27 distinguishable upon the records of the department from the
28 name of any other domestic or foreign corporation for profit
29 or corporation not-for-profit, [or of any domestic or foreign
30 limited partnership that has filed a certificate or qualified

1 under Chapter 85 (relating to limited partnerships) or
2 corresponding provisions of prior law,] or of any corporation
3 or other association then registered under 54 Pa.C.S. Ch. 5
4 (relating to corporate and other association names) or to any
5 name reserved or registered as provided in this part, if the
6 foreign business corporation applying for a certificate of
7 authority files in the department [one of the following:

8 (i) A] a resolution of its board of directors
9 adopting a fictitious name for use in transacting
10 business in this Commonwealth, which fictitious name is
11 [not confusingly similar to] distinguishable upon the
12 records of the department from the name of the other
13 corporation or other association or [to] from any name
14 reserved or registered as provided in this part and that
15 is otherwise available for use by a domestic business
16 corporation.

17 [(ii) The written consent of the other corporation
18 or other association or holder of a reserved or
19 registered name to use the same or confusingly similar
20 name and one or more words are added to make the name
21 applied for distinguishable from the other name.]

22 * * *

23 § 4126. Amended certificate of authority.

24 (a) General rule.--After receiving a certificate of
25 authority, a qualified foreign business corporation may, subject
26 to the provisions of this subchapter, change [the name under
27 which it is authorized to transact business in this
28 Commonwealth] or correct any of the information set forth in its
29 application for a certificate of authority or previous filings
30 under this section by filing in the Department of State an

1 application for an amended certificate of authority. The
2 application shall be executed by the corporation and shall
3 state:

4 (1) The name under which the applicant corporation
5 currently holds a certificate of authority to do business in
6 this Commonwealth.

7 [(2) The name of the jurisdiction under the laws of
8 which the corporation is incorporated.

9 (3) The address, including street and number, if any, of
10 its principal office under the laws of the jurisdiction in
11 which it is incorporated.

12 (4)] (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[, which may
16 constitute a change in the address of its registered office.

17 (5) The new name of the corporation and]

18 (3) The information to be changed or corrected.

19 (4) If the application reflects a change in the name of
20 the corporation, the application shall include a statement
21 that either:

22 (i) the change of name reflects a change effected in
23 the jurisdiction of incorporation; or

24 (ii) documents complying with section 4123(b)
25 (relating to exception; name) accompany the application.

26 (b) Issuance of amended certificate of authority.--Upon the
27 filing of the application, the applicant corporation shall be
28 deemed to hold an amended certificate of authority.

29 (c) Cross reference.--See section 134 (relating to docketing
30 statement).

§ 4146. Provisions applicable to all foreign corporations.

The following provisions of this subpart shall, except as otherwise provided in this section, be applicable to every foreign corporation for profit, whether or not required to procure a certificate of authority under this chapter:

Section 1503 (relating to defense of ultra vires), as to contracts and conveyances [made in] governed by the laws of this Commonwealth and conveyances affecting real property situated in this Commonwealth.

Section 1506 (relating to form of execution of instruments), as to instruments or other documents [made or to be performed in] governed by the laws of this Commonwealth or affecting real property situated in this Commonwealth.

Section 1510 (relating to certain specifically authorized debt terms), as to obligations (as defined in the section) [executed or effected in] governed by the laws of this Commonwealth or affecting real property situated in this Commonwealth.

* * *

§ 4161. Domestication.

* * *

(b) Articles of domestication.--The articles of domestication shall be executed by the corporation and shall set forth in the English language:

(1) The name of the corporation. If the name is in a foreign language, it shall be set forth in Roman letters or characters or Arabic or Roman numerals. If the name is one that is rendered unavailable by any provision of section 1303(b) or (c) (relating to corporate name), the corporation shall adopt, in accordance with any procedures for changing

1 the name of the corporation that are applicable prior to the
2 domestication of the corporation, and shall set forth in the
3 articles of domestication an available name.

4 * * *

5 (c) Cross [reference] references.--See [section] sections
6 134 (relating to docketing statement) and 135 (relating to
7 requirements to be met by filed documents).

8 § 4162. Effect of domestication.

9 (a) General rule.--As a domestic business corporation, the
10 domesticated corporation shall no longer be a foreign business
11 corporation for the purposes of this subpart and shall [have],
12 instead, be a domestic business corporation with all the powers
13 and privileges and [be subject to] all the duties and
14 limitations granted and imposed upon domestic business
15 corporations. [The property, franchises, debts, liens, estates,
16 taxes, penalties and public accounts due the Commonwealth shall
17 continue to be vested in and imposed upon the corporation to the
18 same extent as if it were the successor by merger of the
19 domesticating corporation with and into a domestic business
20 corporation under Subchapter C of Chapter 19 (relating to
21 merger, consolidation, share exchanges and sale of assets).] In
22 all other respects, the domesticated corporation shall be deemed
23 to be the same corporation as it was prior to the domestication
24 without any change in or effect on its existence. Without
25 limiting the generality of the previous sentence, the
26 domestication shall not be deemed to have affected in any way:

27 (1) the right and title of the corporation in and to its
28 assets, property, franchises, estates and choses in action;

29 (2) the liability of the corporation for its debts,
30 obligations, penalties and public accounts due the

1 Commonwealth;

2 (3) any liens or other encumbrances on the property or
3 assets of the corporation; or

4 (4) any contract, license or other agreement to which
5 the corporation is a party or under which it has any rights
6 or obligations.

7 (b) Reclassification of shares.--The shares of the
8 domesticated corporation shall be unaffected by the
9 domestication except to the extent, if any, reclassified in the
10 articles of domestication.

11 § 5303. Corporate name.

12 * * *

13 (b) Duplicate use of names.--The corporate name shall [not
14 be the same as or confusingly similar to] be distinguishable
15 upon the records of the Department of State from:

16 (1) The name of any other domestic corporation for
17 profit or not-for-profit which is either in existence or for
18 which articles of incorporation have been filed but have not
19 yet become effective, or of any foreign corporation for
20 profit or not-for-profit which is either authorized to do
21 business in this Commonwealth or for which an application for
22 a certificate of authority has been filed but which has not
23 yet become effective, [or of any domestic or foreign limited
24 partnership that has filed in the Department of State a
25 certificate or qualified under Chapter 85 (relating to
26 limited partnerships) or under corresponding provisions of
27 prior law,] or the name of any association registered at any
28 time under 54 Pa.C.S. Ch. 5 (relating to corporate and other
29 association names), unless[:

30 (i) where the name is the same or confusingly

1 similar,] the other association:

2 [(A)] (i) has stated that it is about to change
3 its name, or to cease to do business, or is being
4 wound up, or is a foreign association about to
5 withdraw from doing business in this Commonwealth,
6 and the statement and [the] a written consent [of the
7 other association] to the adoption of the name
8 executed by the other association is filed in the
9 Department of State;

10 [(B)] (ii) has filed with the Department of
11 Revenue a certificate of out of existence, or has
12 failed for a period of three successive years to file
13 with the Department of Revenue a report or return
14 required by law and the fact of such failure has been
15 certified by the Department of Revenue to the
16 Department of State;

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

27 [(D)] (iv) has had the registration of its name
28 under 54 Pa.C.S. Ch. 5 terminated and, if the
29 termination was effected by operation of 54 Pa.C.S. §
30 504 (relating to effect of failure to make decennial

1 filings), the application for the use of the name is
2 accompanied by a verified statement stating that at
3 least 30 days' written notice of intention to
4 appropriate the name was given to the delinquent
5 association at its [registered office] last known
6 place of business and that, after diligent search by
7 the affiant, the affiant believes the association to
8 be out of existence.]; or

9 (ii) where the name is confusingly similar, the
10 consent of the other association to the adoption of the
11 name is filed in the Department of State.

12 The consent of the association shall be evidenced by a
13 statement to that effect executed by the association.]

14 * * *

15 (e) Remedies for violation of section.--The use of a name in
16 violation of this section shall not vitiate or otherwise affect
17 the corporate existence but any court having jurisdiction may
18 enjoin the corporation from using or continuing to use a name in
19 violation of this section, upon the application of:

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

23 (2) any person adversely affected.];
24 may enjoin the corporation from using or continuing to use a
25 name in violation of this section.]

26 (f) Cross references.--See sections 135(e) (relating to
27 distinguishable names) and 5106(b)(2) (relating to limited
28 uniform application of subpart).

29 § 5304. Required name changes by senior corporations.

30 (a) Adoption of new name upon reactivation.--Where a

1 corporate name is made available on the basis that the
2 corporation or [nonprofit unincorporated] other association
3 [which] that formerly registered [such] the name has failed to
4 file with the Department of Revenue [or in the Department of
5 State] a report or a return required by law or where the
6 corporation or [nonprofit unincorporated] other association has
7 filed with the Department of Revenue a certificate of out of
8 existence, [such] the corporation or other association shall
9 cease to have by virtue of its prior registration any right to
10 the use of [such] the name[, and such]. The corporation or other
11 association, upon withdrawal of the certificate of out of
12 existence or upon the removal of its delinquency in the filing
13 of the required reports or returns, shall make inquiry with the
14 Department of State with regard to the availability of its
15 name[, and] if [such] the name has been made available to
16 another domestic or foreign corporation for profit or not-for-
17 profit or other association by virtue of [the above] these
18 conditions, shall adopt a new name in accordance with law before
19 resuming its activities.

20 (b) Enforcement of undertaking to release name.--If a
21 corporation has used a name [the same as, or deceptively similar
22 to,] that is not distinguishable upon the records of the
23 Department of State from the name of another corporation or
24 [nonprofit unincorporated] other association as permitted by
25 section 5303(b)(1)[(i)] (relating to duplicate use of names) and
26 the other corporation or [nonprofit unincorporated] other
27 association continues to use its name in this Commonwealth and
28 does not change its name, cease to do business, be wound up, or
29 withdraw as it proposed to do in its consent or change its name
30 as required by subsection (a), any court [of competent] having

jurisdiction may enjoin the other corporation or other association from continuing to use its name or a name that is not distinguishable therefrom, upon the application of:

(1) the Attorney General, acting on his own motion or at the instance of any administrative department, board or commission of this Commonwealth[,]; or

(2) upon the application of any person adversely affected[, may enjoin the other corporation or association from continuing to use its name or a name deceptively similar thereto].

§ 5311. Filing of statement of summary of record by certain corporations.

(a) General rule.--Where any of the [valid] charter documents of a nonprofit corporation are not on file in the Department of State or there is an error in any such document as transferred to the department pursuant to section 140 (relating to custody and management of orphan corporate and business records), and the corporation desires to file any document in the department under any other provision of this [article] subpart or the corporation desires to secure from the department any certificate to the effect that the corporation is a corporation duly incorporated and existing under the laws of this Commonwealth or a certified copy of the articles of the corporation or the corporation desires to correct the text of its charter documents as on file in the department, the corporation shall file in the department a statement of summary of record which shall be executed by the corporation and shall set forth:

(1) The name of the corporation and, subject to section 109 (relating to name of commercial registered office

1 provides in lieu of registered address), the location,
2 including street and number, if any, of its registered
3 office.

4 (2) The statute by or under which the corporation was
5 incorporated.

6 (3) The name under which, the manner in which and the
7 date on which the corporation was originally incorporated,
8 including the date when and the place where the original
9 articles were recorded.

10 (4) The place or places, including volume and page
11 numbers or their equivalent, where the documents
12 [constituting the currently effective articles are] that are
13 not on file in the department or that require correction in
14 the records of the department were originally filed or
15 recorded, the date or dates of each [such] filing or
16 recording and the correct text of [such currently effective
17 articles] the documents. The information specified in this
18 paragraph may be omitted in a statement of summary of record
19 that is delivered to the department contemporaneously with
20 amended and restated articles of the corporation filed under
21 this subpart.

22 [(5) Each name by which the corporation was known, if
23 any, other than its original name and its current name, and
24 the date or dates on which each change of name of the
25 corporation became effective.

26 A corporation shall be required to make only one filing under
27 this subsection.]

28 (b) Validation of prior defects in incorporation.--Upon the
29 filing of a statement by a corporation under this section or the
30 transfer to the department of the records relating to a

1 corporation pursuant to section 140, the corporation [named in
2 the statement] shall be deemed to be a validly subsisting
3 corporation to the same extent as if it had been duly
4 incorporated and was existing under this subpart and the
5 department shall so certify regardless of any absence of or
6 defect in the prior proceedings relating to incorporation.

7 (c) Cross [reference] references.--See [section] sections
8 134 (relating to docketing statement), 135 (relating to
9 requirements to be met by filed documents) and 5106(b)(2)
10 (relating to uniform application of subpart).

11 § 5503. Defense of ultra vires.

12 (a) General rule.--[No] A limitation upon the business,
13 [purpose or] purposes[,] or powers of a nonprofit corporation,
14 expressed or implied in its articles or bylaws or implied by
15 law, shall not be asserted in order to defend any action at law
16 or in equity between the corporation and a third person, or
17 between a member and a third person, involving any contract to
18 which the corporation is a party or any right of property or any
19 alleged liability of [whatsoever] whatever nature[; but such],
20 but the limitation may be asserted:

21 (1) In an action by a member against the corporation to
22 enjoin the doing of unauthorized acts or the transaction or
23 continuation of unauthorized business. If the unauthorized
24 acts or business sought to be enjoined are being transacted
25 pursuant to any contract to which the corporation is a party,
26 the court may, if all of the parties to the contract are
27 parties to the action[,] and if it deems [such action] the
28 result to be equitable, set aside and enjoin the performance
29 of [such] the contract, and in so doing shall allow to the
30 corporation, or to the other parties to the contract, as the

1 case may be, such compensation as may be [equitable]
2 appropriate for the loss or damage sustained by any of them
3 from the action of the court in setting aside and enjoining
4 the performance of [such] the contract, but anticipated
5 profits to be derived from the performance of the contract
6 shall not be awarded by the court as a loss or damage
7 sustained.

8 (2) In any action by or in the right of the corporation
9 to procure a judgment in its favor against an incumbent or
10 former officer, director or member of an other body of the
11 corporation for loss or damage due to his unauthorized acts.

12 (3) In a proceeding by the Commonwealth under section
13 503 (relating to actions to revoke corporate franchises)[,]
14 or in a proceeding by the Commonwealth to enjoin the
15 corporation from the doing of unauthorized or unlawful
16 business.

17 (b) Conveyances of property by or to a corporation.--[No] A
18 conveyance or transfer by or to a nonprofit corporation of
19 property, real or personal, of any kind or description, shall
20 not be invalid or fail because in making [such] the conveyance
21 or transfer, or in acquiring the property, real or personal,
22 [the board of directors or other body or any of the officers]
23 any representative of the corporation acting within the scope of
24 the actual or apparent authority given to [them] him by the
25 [board of directors or other body, have] corporation has
26 exceeded any of the purposes or powers of the corporation.

27 (c) [Nonqualified foreign corporations.--The provisions of
28 this section shall extend to contracts and conveyances made by
29 nonqualified foreign corporations in this Commonwealth and to
30 conveyances by nonqualified foreign corporations of real

1 property situated in this Commonwealth.] Cross reference.--See
2 section 6146 (relating to provisions applicable to all foreign
3 corporations).

4 § 5505. Persons bound by bylaws.

5 Except as otherwise provided by section 5713 (relating to
6 personal liability of directors) or any similar provision of
7 law, bylaws of a nonprofit corporation shall operate only as
8 regulations among the members, directors, members of an other
9 body and officers of the corporation, and shall not affect
10 contracts or other dealings with other persons, unless those
11 persons have actual knowledge of the bylaws.

12 § 5506. Form of execution of instruments.

13 (a) General rule.--Any form of execution provided in the
14 articles or bylaws to the contrary notwithstanding, any note,
15 mortgage, evidence of indebtedness, contract[,] or other
16 [instrument in writing] document, or any assignment or
17 endorsement thereof, executed or entered into between any
18 nonprofit corporation and any other person, when signed by one
19 or more officers or agents having actual or apparent authority
20 to sign it, or by the president or vice-president and secretary
21 or assistant secretary or treasurer or assistant treasurer of
22 [such] the corporation, shall be held to have been properly
23 executed for and in behalf of the corporation.

24 (b) Seal unnecessary.--[Except as otherwise required by
25 statute, the] The affixation of the corporate seal shall not be
26 necessary to the valid execution, assignment or endorsement by a
27 corporation of any instrument [in writing] or other document.

28 (c) [Nonqualified foreign corporations.--The provisions of
29 this section shall extend to instruments in writing made or to
30 be performed in this Commonwealth by a nonqualified foreign

1 corporation and to instruments executed by nonqualified foreign
2 corporations affecting real property situated in this
3 Commonwealth.] Cross reference.--See section 6146 (relating to
4 provisions applicable to all foreign corporations).

5 § 5508. Corporate records; inspection by members.

6 (a) Required records.--Every nonprofit corporation shall
7 keep [an original or duplicate record] minutes of the
8 proceedings of the members [and], the directors[, and [of] any
9 other body [exercising powers or performing duties which under
10 this article may be exercised or performed by such other body,
11 the original or a copy of its bylaws, including all amendments
12 thereto to date, certified by the secretary of the corporation],
13 and [an original or] a [duplicate] membership register, giving
14 the names [of the members, and showing their respective] and
15 addresses of all members and the class and other details of the
16 membership of each. [Every such] The corporation shall also keep
17 appropriate, complete and accurate books or records of account.
18 The records provided for in this subsection shall be kept at
19 [either] any of the following locations:

20 (1) the registered office of the corporation in this
21 Commonwealth [or at its];

22 (2) the principal place of business wherever
23 situated[.]; or

24 (3) any actual business office of the corporation.

25 (b) Right of inspection by a member.--Every member shall,
26 upon written verified demand [under oath] stating the purpose
27 thereof, have a right to examine, in person or by agent or
28 attorney, during the usual hours for business for any proper
29 purpose, the membership register, books and records of account,
30 and records of the proceedings of the members, directors and

1 [such] any other body, and to make copies or extracts therefrom.
2 A proper purpose shall mean a purpose reasonably related to the
3 interest of [such] the person as a member. In every instance
4 where an attorney or other agent [shall be] is the person who
5 seeks the right [to] of inspection, the demand [under oath]
6 shall be accompanied by a verified power of attorney or [such]
7 other writing [which] that authorizes the attorney or other
8 agent to so act on behalf of the member. The demand [under oath]
9 shall be directed to the corporation:

10 (1) at its registered office in this Commonwealth [or];

11 (2) at its principal place of business wherever
12 situated[.]; or

13 (3) in care of the person in charge of an actual
14 business office of the corporation.

15 (c) Proceedings for the enforcement of inspection by a
16 member.--If the corporation, or an officer or agent thereof,
17 refuses to permit an inspection sought by a member or attorney
18 or other agent acting for the member pursuant to subsection (b)
19 [of this section] or does not reply to the demand within five
20 business days after the demand has been made, the member may
21 apply to the court for an order to compel [such] the inspection.
22 The court shall determine whether or not the person seeking
23 inspection is entitled to the inspection sought. The court may
24 summarily order the corporation to permit the member to inspect
25 the membership register and the other books and records of the
26 corporation and to make copies or extracts therefrom; or the
27 court may order the corporation to furnish to the member a list
28 of its members as of a specific date on condition that the
29 member first pay to the corporation the reasonable cost of
30 obtaining and furnishing [such] the list and on such other

1 conditions as the court deems appropriate. Where the member
2 seeks to inspect the books and records of the corporation, other
3 than its membership register or list of members, he shall first
4 establish:

5 (1) that he has complied with the provisions of this
6 section respecting the form and manner of making demand for
7 inspection of such document; and

8 (2) that the inspection he seeks is for a proper
9 purpose.

10 Where the member seeks to inspect the membership register or
11 list of members of the corporation and he has complied with the
12 provisions of this section respecting the form and manner of
13 making demand for inspection of [such] the documents, the burden
14 of proof shall be upon the corporation to establish that the
15 inspection he seeks is for an improper purpose. The court may,
16 in its discretion, prescribe any limitations or conditions with
17 reference to the inspection, or award such other or further
18 relief as the court [may deem] deems just and proper. The court
19 may order books, documents and records, pertinent extracts
20 therefrom, or duly authenticated copies thereof, to be brought
21 [within] into this Commonwealth and kept in this Commonwealth
22 upon such terms and conditions as the order may prescribe.

23 (d) Cross references.--See sections 107 (relating to form of
24 records) and 5512 (relating to informational rights of a
25 director).

26 § 5510. [(Reserved).] Certain specifically authorized debt
27 terms.

28 (a) Interest rates.--A nonprofit corporation shall not plead
29 or set up usury, or the taking of more than the lawful rate of
30 interest, or the taking of any finance, service or default

charge in excess of any maximum rate therefor provided or prescribed by law, as a defense to any action or proceeding brought against it to recover damages on, or to enforce payment of, or to enforce any other remedy on, any obligation executed or effected by the corporation.

(b) Yield maintenance premiums.--A prepayment premium determined by reference to the approximate spread between the yield at issuance, or at the date of amendment of any of the terms, of an obligation of a corporation and the yield at or about such date of an interest rate index of independent significance and contingent upon a change in the ownership of or memberships in the corporation or a default by or other change in the condition or prospects of the corporation or any affiliate of the corporation shall be deemed liquidated damages and shall not constitute a penalty.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Affiliate." An affiliate or associate as defined in section 2552 (relating to definitions).

"Obligation." Includes an installment sale contract.

(d) Cross reference.--See section 6146 (relating to provisions applicable to all foreign corporations).

§ 5512. Informational rights of a director.

(a) General rule.--To the extent reasonably related to the performance of the duties of the director, including those arising from service as a member of a committee of the board of directors, a director of a nonprofit corporation is entitled:

(1) in person or by any attorney or other agent, at any reasonable time, to inspect and copy corporate books, records

1 and documents and, in addition, to inspect, and receive
2 information regarding, the assets, liabilities and operations
3 of the corporation and any subsidiaries of the corporation
4 incorporated or otherwise organized or created under the laws
5 of this Commonwealth that are controlled directly or
6 indirectly by the corporation; and

7 (2) to demand that the corporation exercise whatever
8 rights it may have to obtain information regarding any other
9 subsidiaries of the corporation.

10 (b) Proceedings for the enforcement of inspection by a
11 director.--If the corporation, or an officer or agent thereof,
12 refuses to permit an inspection or obtain or provide information
13 sought by a director or attorney or other agent acting for the
14 director pursuant to subsection (a) or does not reply to the
15 request within two business days after the request has been
16 made, the director may apply to the court for an order to compel
17 the inspection or the obtaining or providing of the information.
18 The court shall summarily order the corporation to permit the
19 requested inspection or to obtain the information unless the
20 corporation establishes that the information to be obtained by
21 the exercise of the right is not reasonably related to the
22 performance of the duties of the director or that the director
23 or the attorney or agent of the director is likely to use the
24 information in a manner that would violate the duty of the
25 director to the corporation. The order of the court may contain
26 provisions protecting the corporation from undue burden or
27 expense and prohibiting the director from using the information
28 in a manner that would violate the duty of the director to the
29 corporation.

30 (c) Cross references.--See sections 107 (relating to form of

1 records), 5508 (relating to corporate records; inspection by
2 members) and 42 Pa.C.S. § 2503(7) (relating to right of
3 participants to receive counsel fees).

4 ~~§ 5545. Income from corporate activities.~~ <—

5 ~~(a) General rule. A nonprofit corporation whose lawful~~
6 ~~activities involve among other things the charging of fees or~~
7 ~~prices for its services or products, shall have the right to~~
8 ~~receive [such] that income and, in so doing, may make [an~~
9 ~~incidental] a profit. All [such incidental] profits shall be~~
10 ~~applied to the maintenance and operation of the lawful~~
11 ~~activities of the corporation, or any of its subordinate units~~
12 ~~or of any not for profit association to which it is subordinate,~~
13 ~~and [in no case] shall otherwise not be divided or distributed~~
14 ~~in any manner whatsoever among the members, directors, members~~
15 ~~of an other body or officers of the corporation. [As used in~~
16 ~~this section the terms fees or prices do not include rates of~~
17 ~~contribution, fees or dues levied under an insurance certificate~~
18 ~~issued by a fraternal benefit society, so long as the~~
19 ~~distribution of profits arising from said fees or prices is~~
20 ~~limited to the purposes set forth in this section and section~~
21 ~~5551 (relating to dividends prohibited; compensation and certain~~
22 ~~payments authorized).]~~

23 ~~(b) Cross references. See sections 5511 (relating to~~
24 ~~establishment of subordinate units) and 5551 (relating to~~
25 ~~dividends prohibited; compensation and certain payments~~
26 ~~authorized).~~

27 ~~§ 5546. Purchase, sale[, mortgage] and lease of [real]~~
28 ~~property.~~

29 ~~[Except for an industrial development corporation whose~~
30 ~~articles or bylaws otherwise provide, no purchase of real~~

~~1 property shall be made by a nonprofit corporation and no
2 corporation shall sell, mortgage, lease away or otherwise
3 dispose of its real property, unless authorized by the vote of
4 two thirds of the members in office of the board of directors or
5 other body, except that if there are 21 or more directors or
6 members of such other body, the vote of a majority of the
7 members in office shall be sufficient. No application to or
8 confirmation of any court shall be required and, unless
9 otherwise restricted in the bylaws, no vote or consent of the
10 members shall be required to make effective such action by the
11 board or other body. If the real property is subject to a trust
12 the conveyance away shall be free of trust and the trust shall
13 be impinged upon the proceeds of such conveyance.] Except as
14 otherwise provided in this subpart and unless otherwise provided
15 in the bylaws, no application to or confirmation of any court
16 shall be required for the purchase by or the sale, lease or
17 other disposition of the real or personal property, or any part
18 thereof, of a nonprofit corporation, and, unless otherwise
19 restricted in section 5930 (relating to voluntary transfer of
20 corporate assets) or in the bylaws, no vote or consent of the
21 members shall be required to make effective such action by the
22 board or other body. If the property is subject to a trust, the
23 conveyance away shall be free of trust, and the trust shall be
24 impinged upon the proceeds of the conveyance.~~

25 § 5547. Authority to take and hold trust property.

26 (a) General rule.--Every nonprofit corporation incorporated
27 for a charitable purpose or purposes may take, receive and hold
28 such real and personal property as may be given, devised to[,]
29 or otherwise vested in [such] the corporation, in trust or
30 otherwise, for the purpose or purposes set forth in its

1 articles.

2 (b) Standard of conduct.--The board of directors or other
3 body of the corporation shall, as trustees of [such] trust
4 property, be held to the same degree of responsibility and
5 accountability as if not incorporated, unless:

6 (1) a less degree or a particular degree of
7 responsibility and accountability is prescribed in the trust
8 instrument, or [unless]

9 (2) the board of directors or such other body remain
10 under the control of the members of the corporation or third
11 persons who retain the right to direct, and do direct, the
12 actions of the board or other body as to the use of the trust
13 property from time to time.

14 ~~[(b)]~~ (c) Nondiversion of certain property.--~~{Property~~ <—
15 ~~committed to charitable purposes}~~ ~~Trust property~~ shall not, by <—
16 any proceeding under Chapter 59 (relating to fundamental
17 changes) or otherwise, be diverted from the objects to which it
18 was donated, granted or devised, unless and until the [board of
19 directors or other body] corporation obtains from the court an
20 order under 20 Pa.C.S. Ch. 61 (relating to estates) specifying
21 the disposition of the property.

22 § 5551. Dividends prohibited; compensation and certain payments
23 authorized.

24 (a) General rule.--[A] Except as provided in section 5545
25 (relating to income from corporate activities), a nonprofit
26 corporation shall not pay dividends or distribute any part of
27 its net income or profits to its members, directors, members of
28 an other body or officers. [Nothing herein contained shall
29 prohibit a fraternal benefit society operating under the
30 insurance laws of Pennsylvania from paying dividends or refunds

1 by whatever name known pursuant to the terms of its insurance
2 contracts.] A contribution by a corporation to a not-for-profit
3 association made on or after February 13, 1973, shall not be
4 deemed a dividend or distribution for purposes of this subpart.

5 (b) Reasonable compensation for services.--A [nonprofit]
6 corporation may pay compensation in a reasonable amount to
7 members, directors, members of an other body or officers for
8 services rendered.

9 (c) Certain payments authorized.--A [nonprofit] corporation
10 may confer monetary or other benefits upon members or nonmembers
11 in conformity with its purposes, may repay capital
12 contributions, and may redeem its [subvention certificates or
13 evidences of indebtedness] subventions or obligations, as
14 authorized by this [article, except when the corporation is
15 currently insolvent or would thereby be made insolvent or
16 rendered unable to carry on its corporate purposes, or when the
17 fair value of the assets of the corporation remaining after such
18 conferring of benefits, payment or redemption would be
19 insufficient to meet its liabilities.] subpart unless, after
20 giving effect thereto, the corporation would be unable to pay
21 its debts as they become due in the usual course of its
22 business. A [nonprofit] corporation may make distributions of
23 cash or property to members upon dissolution or final
24 liquidation as permitted by this article.

25 § 5552. Liabilities of members.

26 (a) General rule.--[The members of a nonprofit corporation
27 shall not be personally liable for the debts, liabilities or
28 obligations of the corporation.] A member of a nonprofit
29 corporation shall not be liable, solely by reason of being a
30 member, under an order of a court or in any other manner for a

debt, obligation or liability of the corporation of any kind or for the acts of any member or representative of the corporation.

(b) Obligations of member to corporation.--A member shall be liable to the corporation only to the extent of any unpaid portion of the capital contributions, membership dues or assessments which the corporation may have lawfully imposed upon him, or for any other indebtedness owed by him to the corporation. No action shall be brought by any creditor of the corporation to reach and apply any such liability to any debt of the corporation until after:

(1) final judgment [shall have] has been rendered against the corporation in favor of the creditor and execution thereon returned unsatisfied[, or the corporation shall have been adjudged bankrupt, or];

(2) a case involving the corporation has been brought under 11 U.S.C. Ch. 7 (relating to liquidation) and a distribution has been made and the case closed or a notice of no assets has been issued; or

(3) a receiver [shall have] has been appointed with power to collect debts, and [which] the receiver, on demand of a creditor to bring an action thereon, has refused to sue for [such] the unpaid amount, or the corporation [shall have] has been dissolved or ceased its activities leaving debts unpaid.

[No such] (c) Action by a creditor.--An action by a creditor under subsection (b) shall not be brought more than three years after the happening of [any one of such events.] the first to occur of the events listed in subsection (b)(1) through (3).

§ 5709. Conduct of members meeting.

(a) Presiding officer.--There shall be a presiding officer

1 at every meeting of the members. The presiding officer shall be
2 appointed in the manner provided in the bylaws or, in the
3 absence of such provision, by the board of directors. If the
4 bylaws are silent on the appointment of the presiding officer
5 and the board fails to designate a presiding officer, the
6 president shall be the presiding officer.

7 (b) Authority of the presiding officer.--Except as otherwise
8 provided in the bylaws, the presiding officer shall determine
9 the order of business and shall have the authority to establish
10 rules for the conduct of the meeting.

11 (c) Procedural standard.--Any action by the presiding
12 officer in adopting rules for, and in conducting, a meeting
13 shall be fair to the members.

14 (d) Closing of the polls.--The presiding officer shall
15 announce at the meeting when the polls close for each matter
16 voted upon. If no announcement is made, the polls shall be
17 deemed to have closed upon the final adjournment of the meeting.
18 After the polls close, no ballots, proxies or votes, nor any
19 revocations or changes thereto, may be accepted.

20 § 5729. Voting rights of directors.

21 (a) General rule.--Unless otherwise provided in a bylaw
22 adopted by the members, every director of a nonprofit
23 corporation shall be entitled to one vote. Without limiting the
24 generality of the foregoing, a bylaw adopted by the members may
25 provide that a class or other defined group of directors shall
26 have multiple or fractional voting rights, or no right to vote,
27 either generally or under specified circumstances.

28 (b) [Multiple and fractional voting.--The requirement of
29 this article] Application of procedural requirements.--Any
30 requirement of this subpart for the presence of or vote or other

1 action by a specified percentage of directors shall be satisfied
2 by the presence of or vote or other action by directors entitled
3 to cast [such] the specified percentage of the votes [which all]
4 that all voting directors in office are entitled to cast.

5 § 5731. Executive and other committees of the board.

6 (a) Establishment and powers.--Unless otherwise restricted
7 in the bylaws:

8 (1) The board of directors may, by resolution adopted by
9 a majority of the directors in office, establish one or more
10 committees to consist of one or more directors of the
11 corporation.

12 (2) Any [such] committee, to the extent provided in the
13 resolution of the board of directors or in the bylaws, shall
14 have and may exercise all of the powers and authority of the
15 board of directors, except that [no such] a committee shall
16 not have any power or authority as to the following:

17 (i) The submission to members of any action
18 requiring approval of members under this [article]
19 subpart.

20 (ii) The creation or filling of vacancies in the
21 board of directors.

22 (iii) The adoption, amendment or repeal of the
23 bylaws.

24 (iv) The amendment or repeal of any resolution of
25 the board that by its terms is amendable or repealable
26 only by the board.

27 (v) Action on matters committed by the bylaws or a
28 resolution of the board of directors exclusively to
29 another committee of the board.

30 [(2)] (3) The board may designate one or more directors

1 as alternate members of any committee, who may replace any
2 absent or disqualified member at any meeting of the
3 committee. In the absence or disqualification of a member of
4 a committee, the member or members thereof present at any
5 meeting and not disqualified from voting, whether or not he
6 or they constitute a quorum, may unanimously appoint another
7 director to act at the meeting in the place of any [such]
8 absent or disqualified member.

9 (b) Term.--Each committee of the board shall serve at the
10 pleasure of the board.

11 § 5745. Advancing expenses.

12 Expenses (including attorneys' fees) incurred in defending
13 any action or proceeding referred to in this subchapter may be
14 paid by a nonprofit corporation in advance of the final
15 disposition of the action or proceeding upon receipt of an
16 undertaking by or on behalf of the representative to repay the
17 amount if it is ultimately determined that he is not entitled to
18 be indemnified by the corporation as authorized in this
19 subchapter or otherwise. Except as otherwise provided in the
20 bylaws, advancement of expenses shall be authorized by the board
21 of directors. Section 5728 (relating to interested members,
22 directors or officers; quorum) shall not be applicable to the
23 advancement of expenses under this section.

24 § 5748. Application to surviving or new corporations.

25 [For] (a) General rule.--Except as provided in subsection
26 (b), for the purposes of this subchapter, references to "the
27 corporation" include all constituent corporations absorbed in a
28 consolidation, merger or division, as well as the surviving or
29 new corporations surviving or resulting therefrom, so that any
30 person who is or was a representative of the constituent,

1 surviving or new corporation, or is or was serving at the
2 request of the constituent, surviving or new corporation as a
3 representative of another domestic or foreign corporation for
4 profit or not-for-profit, partnership, joint venture, trust or
5 other enterprise, shall stand in the same position under the
6 provisions of this subchapter with respect to the surviving or
7 new corporation as he would if he had served the surviving or
8 new corporation in the same capacity.

9 (b) Divisions.--Notwithstanding subsection (a), the
10 obligations of a dividing corporation to indemnify and advance
11 expenses of its representatives, whether arising under this
12 subchapter or otherwise, may be allocated in a division in the
13 same manner and with the same effect as any other liability of
14 the dividing corporation.

15 § 5758. Voting rights of members.

16 (a) General rule.--Unless otherwise provided in a bylaw
17 adopted by the members, every member of a nonprofit corporation
18 shall be entitled to one vote.

19 (b) Procedures.--The manner of voting on any matter,
20 including changes in the articles or bylaws, may be by ballot,
21 mail or any reasonable means provided in a bylaw adopted by the
22 members. If a bylaw adopted by the members provides a fair and
23 reasonable procedure for the nomination of candidates for any
24 office, only candidates who have been duly nominated in
25 accordance therewith shall be eligible for election. Unless
26 otherwise provided in such a bylaw, in elections for directors,
27 voting shall be by ballot, and the candidates receiving the
28 highest number of votes from each class or group of classes, if
29 any, of members entitled to elect directors separately up to the
30 number of directors to be elected by such class or group of

1 classes shall be elected. If at any meeting of members directors
2 of more than one class are to be elected, each class of
3 directors shall be elected in a separate election.

4 (c) Cumulative voting.--[The members of a nonprofit
5 corporation shall have the right to cumulate their votes for the
6 election of directors only if and to the extent a bylaw adopted
7 by the members so provides.] If a bylaw adopted by the members
8 so provides, in each election of directors of a nonprofit
9 corporation every member entitled to vote shall have the right
10 to multiply the number of votes to which he may be entitled by
11 the total number of directors to be elected in the same election
12 by the members or the class of members to which he belongs and
13 he may cast the whole number of his votes for one candidate or
14 he may distribute them among any two or more candidates.

15 (d) Sale of votes.--No member shall sell his vote or issue a
16 proxy for money or anything of value.

17 (e) Voting lists.--Upon request of a member, the books or
18 records of membership shall be produced at any regular or
19 special meeting of the corporation. If at any meeting the right
20 of a person to vote is challenged, the presiding officer shall
21 require [such] the books or records to be produced as evidence
22 of the right of the person challenged to vote, and all persons
23 who appear by [such] the books or records to be members entitled
24 to vote may vote. See section 6145 (relating to applicability of
25 certain safeguards to foreign corporations).

26 § 5782. Actions against directors, members of an other body and
27 officers.

28 (a) General rule.--Except as provided in subsection (b), in
29 any action or proceeding brought to enforce a secondary right on
30 the part of one or more members of a nonprofit corporation

1 against any present or former officer, director or member of an
2 other body of the corporation because the corporation refuses to
3 enforce rights that may properly be asserted by it, each
4 plaintiff must aver and it must be made to appear that each
5 plaintiff was a member of the corporation at the time of the
6 transaction of which he complains.

7 (b) Exception.--Any member who, except for the provisions of
8 subsection (a), would be entitled to maintain the action or
9 proceeding and who does not meet such requirements may,
10 nevertheless in the discretion of the court, be allowed to
11 maintain the action or proceeding on preliminary showing to the
12 court, by application and upon such verified statements and
13 depositions as may be required by the court, that there is a
14 strong prima facie case in favor of the claim asserted on behalf
15 of the corporation and that without the action serious injustice
16 will result.

17 (c) Security for costs.--In any action or proceeding
18 instituted or maintained by less than the smaller of 50 members
19 of any class or 5% of the members of any class of the
20 corporation, the corporation in whose right the action or
21 proceeding is brought shall be entitled at any stage of the
22 proceedings to require the plaintiffs to give security for the
23 reasonable expenses, including attorney fees, that may be
24 incurred by it in connection therewith or for which it may
25 become liable pursuant to section 5743 (relating to mandatory
26 indemnification), but only insofar as relates to actions by or
27 in the right of the corporation, to which security the
28 corporation shall have recourse in such amount as the court
29 determines upon the termination of the action or proceeding. The
30 amount of security may, from time to time, be increased or

1 decreased in the discretion of the court upon showing that the
2 security provided has or may become inadequate or excessive. The
3 security may be denied or limited in the discretion of the court
4 upon preliminary showing to the court, by application and upon
5 such verified statements and depositions as may be required by
6 the court, establishing prima facie that the requirement of full
7 or partial security would impose undue hardship on plaintiffs
8 and serious injustice would result.

9 (d) Cross reference.--See section 6146 (relating to
10 provisions applicable to all foreign corporations).

11 § 5903. Bankruptcy or insolvency proceedings.

12 (a) General rule.--[Whenever] Unless otherwise provided in
13 the bylaws, whenever a nonprofit corporation is insolvent or in
14 financial difficulty, the board of directors may, by resolution
15 and without the consent of the members, authorize and designate
16 the officers of the corporation to execute a deed of assignment
17 for the benefit of creditors, or file a voluntary petition in
18 bankruptcy, or file an answer consenting to the appointment of a
19 receiver upon a complaint in the nature of an equity action
20 filed by creditors or members, or, if insolvent, file an answer
21 to an involuntary petition in bankruptcy admitting the
22 insolvency of the corporation and its willingness to be adjudged
23 a debtor on that ground.

24 (b) Bankruptcy proceedings.--[A] If authorized pursuant to
25 subsection (a), a nonprofit corporation may participate in
26 proceedings under and in the manner provided by Title 11 of the
27 United States Code (relating to bankruptcy) notwithstanding any
28 contrary provision of its articles or bylaws or this subpart,
29 other than [section] sections 103 (relating to subordination of
30 title to regulatory laws) and 5107 (relating to subordination of

1 subpart to canon law). The corporation shall have full power and
2 authority to put into effect and carry out a plan of
3 reorganization or arrangement and the decrees and orders of the
4 court, or judge or referee relative thereto, and may take any
5 proceeding and do any act provided in the plan or arrangement or
6 directed by such decrees and orders, without further action by
7 its directors or members. Such power and authority may be
8 exercised, and such proceedings and acts may be taken, as may be
9 directed by such decrees or orders, by the trustees or receivers
10 of the corporation appointed in the bankruptcy proceedings, or a
11 majority thereof, or, if none be appointed and acting, by
12 designated officers of the corporation, or by a master or other
13 representative appointed by the court or judge or referee, with
14 the effect as if exercised and taken by unanimous action of the
15 directors and members of the corporation. Without limiting the
16 generality or effect of the foregoing, the corporation may:

17 * * *

18 § 5906. CHARITABLE NONPROFIT CORPORATIONS.

<—

19 (A) GENERAL RULE.--WHERE ANY PROVISION OF SUBCHAPTER A
20 (RELATING TO PRELIMINARY PROVISIONS), C (RELATING TO MERGER,
21 CONSOLIDATION AND SALE OF ASSETS), D (RELATING TO DIVISION), E
22 (RELATING TO CONVERSION), F (RELATING TO VOLUNTARY DISSOLUTION
23 AND WINDING UP), G (RELATING TO INVOLUNTARY LIQUIDATION AND
24 DISSOLUTION) OR H (RELATING TO POSTDISSOLUTION PROVISION FOR
25 LIABILITIES) RELATES TO A NONPROFIT CORPORATION INCORPORATED FOR
26 ANY CHARITABLE PURPOSE OR PURPOSES AS DEFINED UNDER SECTION 5103
27 (RELATING TO DEFINITIONS), NO ACTION SHALL TAKE EFFECT UNLESS,
28 AFTER NOTICE TO THE ATTORNEY GENERAL, AN ORDER OF COURT
29 APPROVING THE PROPOSED TRANSACTION HAS BEEN OBTAINED. IN
30 ADDITION, NO AFFILIATION, AMENDMENT OF ARTICLES OF

1 INCORPORATION, PARTNERSHIP, JOINT VENTURE, OR ANY GIFT WHICH
2 RESULTS IN A CHANGE IN CONTROL OF ALL, OR SUBSTANTIALLY ALL OF
3 THE ASSETS OF A NONPROFIT CORPORATION INCORPORATED FOR ANY
4 CHARITABLE PURPOSE OR PURPOSES DEFINED UNDER SECTION 5103, SHALL
5 TAKE EFFECT UNLESS, AFTER NOTICE TO THE ATTORNEY GENERAL, AN
6 ORDER OF COURT APPROVING THE PROPOSED TRANSACTION HAS BEEN
7 OBTAINED.

8 (B) NOTICE TO ATTORNEY GENERAL.--AT LEAST 90 DAYS' ADVANCE
9 WRITTEN NOTICE OF ANY PROCEEDING IN THE ORPHANS' COURT
10 CONCERNING THE PROPOSED TRANSACTION SHALL BE PROVIDED TO THE
11 ATTORNEY GENERAL OF THE COMMONWEALTH AT HIS PRINCIPAL OFFICE IN
12 HARRISBURG, PENNSYLVANIA. THE NOTICE SHALL INCLUDE OR BE
13 ACCOMPANIED BY ALL OF THE FOLLOWING AS MAY BE APPLICABLE:

14 (1) THE IDENTITIES OF THE PARTIES TO THE TRANSACTION;

15 (2) A COPY OF THE WRITTEN AGREEMENT OF AFFILIATION,
16 MERGER, CONSOLIDATION, PARTNERSHIP, JOINT CONVERSION,
17 CONVERSION, DIVISION, DISSOLUTION, SALE, EXCHANGE, LEASE OR
18 GIFT, OR A DESCRIPTION OF THE TERMS THEREOF IN THE ABSENCE OF
19 ANY WRITTEN AGREEMENT;

20 (3) A COPY OF ANY FAIRNESS OPINION, VALUATION OR OTHER
21 REPORT, ANALYSIS OR ASSESSMENT DEVELOPED BY OR ON BEHALF OF
22 ANY IDENTIFIED PARTY CONCERNING THE PROPOSED TRANSACTION;

23 (4) COPIES OF THE ORIGINAL ARTICLES OF INCORPORATION AND
24 BY-LAWS, INCLUDING ANY AMENDMENTS THERETO, FOR ANY CHARITABLE
25 NONPROFIT CORPORATION IDENTIFIED ABOVE, AS WELL AS ANY
26 PARENT, SUBSIDIARY, AFFILIATE, SUPPORTING FOUNDATION OR OTHER
27 ENTITY THAT CONTROLS ANY IDENTIFIED CHARITABLE NONPROFIT
28 CORPORATION IN WHOLE OR IN PART OR THAT IS CONTROLLED BY ANY
29 IDENTIFIED CHARITABLE NONPROFIT CORPORATION IN WHOLE OR IN
30 PART;

1 (5) COPIES OF THE NEW OR AMENDED ARTICLES OF
2 INCORPORATION AND BY-LAWS FOR ANY NEW OR SURVIVING CHARITABLE
3 NONPROFIT CORPORATION;

4 (6) THE IDENTITIES OF THE DIRECTORS, OFFICERS, MEMBERS
5 AND/OR SHAREHOLDERS OF EACH ENTITY FOR WHICH ARTICLES AND BY-
6 LAWS ARE PRODUCED HEREUNDER;

7 (7) A DESCRIPTION OF ANY EXISTING RELATIONSHIPS OR JOINT
8 VENTURES BETWEEN THE IDENTIFIED PARTIES AS WELL AS THE
9 CIRCUMSTANCES THAT OCCASIONED THE SAME TOGETHER WITH COPIES
10 OF ANY WRITTEN AGREEMENTS PERTAINING THERETO;

11 (8) IDENTIFICATION OF ANY RELATED PARTY AGREEMENTS OR
12 TRANSACTIONS THAT HAVE OCCURRED OR EXISTED BETWEEN OR AMONG
13 ANY OF THE DIRECTORS, OFFICERS, EMPLOYEES, MEMBERS AND/OR
14 SHAREHOLDERS IDENTIFIED ABOVE AND ANY OF THE ENTITIES FOR
15 WHICH ARTICLES AND BY-LAWS ARE PRODUCED HEREUNDER, TOGETHER
16 WITH COPIES OF ANY WRITTEN AGREEMENTS PERTAINING THERETO OR A
17 DESCRIPTION OF THE TERMS THEREOF IN THE ABSENCE OF ANY
18 WRITTEN AGREEMENT;

19 (9) IDENTIFICATION OF ANY INTER VIVOS OR TESTAMENTARY
20 GIFTS OR DONATIONS MADE TO ANY IDENTIFIED PARTY AND
21 RESTRICTED TO ANY PARTICULAR PURPOSE OR PURPOSES, INCLUDING,
22 BUT NOT LIMITED TO, ANY REAL ESTATE, TOGETHER WITH COPIES OF
23 ANY GOVERNING DOCUMENTS RELATED THERETO;

24 (10) A COPY OF ANY AMENDMENT OF ARTICLES OF
25 INCORPORATION, PLAN OF AFFILIATION, MERGER, CONSOLIDATION,
26 DIVISION OR CONVERSION REQUIRED UNDER THIS CHAPTER;

27 (11) A DESCRIPTION OF THE ALTERNATIVES TO THE PROPOSED
28 TRANSACTION THAT WERE EXPLORED OR CONSIDERED BY THE
29 IDENTIFIED CHARITABLE NONPROFIT CORPORATION OR CORPORATIONS,
30 INCLUDING, BUT NOT LIMITED TO, ALL OTHER OFFERS SOLICITED OR

1 RECEIVED TO AFFILIATE, MERGE, CONSOLIDATE, ENTER INTO A
2 PARTNERSHIP OR JOINT VENTURE, CONVERT, DIVIDE, DISSOLVE, BUY,
3 SELL, EXCHANGE OR LEASE, TOGETHER WITH A DESCRIPTION OF THE
4 OUTCOME OF EACH ALTERNATIVE SO CONSIDERED;

5 (12) IDENTIFICATION OF ANY RELATED PARTY TRANSACTIONS
6 THAT WILL EXIST BETWEEN OR AMONG ANY OF THE DIRECTORS,
7 OFFICERS, MEMBERS AND/OR SHAREHOLDERS IDENTIFIED ABOVE AND
8 THE NEWLY FORMED OR SURVIVING CORPORATION OR CORPORATIONS
9 AFTER THE EFFECTIVE DATE OF THE PROPOSED TRANSACTION,
10 TOGETHER WITH COPIES OF ANY WRITTEN AGREEMENTS PERTAINING
11 THERE TO OR A DESCRIPTION OF THE TERMS THEREOF IN THE ABSENCE
12 OF ANY WRITTEN AGREEMENT;

13 (13) COPIES OF ANY REPORTS, FILINGS OR APPLICATIONS MADE
14 TO ANY OTHER FEDERAL OR STATE GOVERNMENTAL AGENCY CONCERNING
15 THE PROPOSED TRANSACTION; AND

16 (14) ANY OTHER DOCUMENTS OR INFORMATION THE ATTORNEY
17 GENERAL MAY REQUEST.

18 (C) SCOPE AND COSTS OF ATTORNEY GENERAL'S REVIEW.--THE
19 ATTORNEY GENERAL MAY CONTRACT WITH INDEPENDENT EXPERTS AND
20 CONSULTANTS IN EVALUATING THE PROPRIETY AND EFFECTS OF THE
21 PROPOSED TRANSACTION AND SHALL BE REIMBURSED FOR ALL REASONABLE
22 COSTS AND EXPENSES INCURRED THEREFOR BY THE IDENTIFIED PARTIES,
23 REGARDLESS OF THE ATTORNEY GENERAL'S POSITION CONCERNING THE
24 PROPOSED TRANSACTION OR THE COURT'S ULTIMATE DISPOSITION OF THE
25 SAME.

26 (D) PUBLIC MEETINGS, NOTICE OF TIME AND PLACE.--THE ATTORNEY
27 GENERAL MAY CONDUCT ONE OR MORE PUBLIC MEETINGS, ONE OF WHICH
28 MAY BE HELD IN THE COUNTY WHERE THE NONPROFIT CHARITABLE
29 CORPORATION AFFECTED BY THE TRANSACTION IS LOCATED. AT THE
30 PUBLIC MEETING, THE ATTORNEY GENERAL MAY HEAR COMMENTS FROM

1 INTERESTED PERSONS DESIRING TO MAKE STATEMENTS REGARDING THE
2 PROPOSED TRANSACTION.

3 (E) ORPHANS' COURT APPROVAL REQUIRED.--NO FUNDAMENTAL CHANGE
4 OR TRANSACTION SUBJECT TO THE PROVISIONS OF THIS CHAPTER SHALL
5 BE EFFECTIVE UNLESS AND UNTIL AN ORDER OF COURT HAS BEEN
6 OBTAINED APPROVING THE TRANSACTION. THE ACTION SHALL BE BROUGHT
7 IN THE COUNTY OR COUNTIES IN WHICH THE REGISTERED OFFICE OR
8 OFFICES OF THE CHARITABLE NONPROFIT CORPORATION OR CORPORATIONS
9 ARE LOCATED AND SHALL BE PUBLISHED IN AT LEAST TWO NEWSPAPERS OF
10 GENERAL CIRCULATION IN EACH COUNTY INVOLVED. ALL TRANSACTION
11 DOCUMENTS SHALL BE SUBMITTED TO THE COURT OR COURTS AND THE SAME
12 SHALL BE AVAILABLE FOR PUBLIC INSPECTION, UNLESS, UPON
13 APPLICATION BY THE MOVING PARTY AND AFTER NOTICE TO THE ATTORNEY
14 GENERAL, THE COURT OR COURTS SHOULD SEAL THE RECORD PENDING A
15 FINAL DISPOSITION OF THE CASE. ANY SUCH ORDERS SO ENTERED SHALL
16 BE IMMEDIATELY DISSOLVED UPON THE APPROVAL OR OTHER FINAL
17 DISPOSITION OF THE CASE.

18 § 5912. Proposal of amendments.

19 (a) General rule.--Every amendment [to] of the articles of a
20 nonprofit corporation shall be proposed [by]:

21 (1) by the adoption by the board of directors or other
22 body of a resolution setting forth the proposed amendment;

23 (2) unless otherwise provided in the articles, by
24 petition of members entitled to cast at least 10% of the
25 votes [which] that all members are entitled to cast thereon,
26 setting forth the proposed amendment, which petition shall be
27 directed to the board of directors and filed with the
28 secretary of the corporation; or

29 (3) by such other method as may be provided in the
30 bylaws.

1 [The] (b) Submission to members.--Except where the approval
2 of the members is unnecessary under this subchapter, the board
3 of directors or other body [or the petitioning members] shall
4 direct that the proposed amendment be submitted to a vote of the
5 members entitled to vote thereon at a regular or special meeting
6 of the members.

7 [~~(b)~~] (c) Form of amendment.--[The resolution or petition
8 shall contain the language of the proposed amendment to the
9 articles by providing that the articles shall be amended so as
10 to read as therein set forth in full, or that any provision
11 thereof be amended so as to read as therein set forth in full,
12 or that the matter stated in the resolution or petition be added
13 to or stricken from the articles. The resolution or petition may
14 set forth the manner and basis of reclassifying the shares of
15 the corporation.] The resolution or petition shall contain the
16 language of the proposed amendment of the articles:

17 (1) by setting forth the existing text of the articles
18 or the provision thereof that is proposed to be amended, with
19 brackets around language that is to be deleted and
20 underscoring under language that is to be added; or

21 (2) by providing that the articles shall be amended so
22 as to read as therein set forth in full, or that any
23 provision thereof be amended so as to read as therein set
24 forth in full, or that the matter stated in the resolution or
25 petition be added to or stricken from the articles.

26 (d) Terms of amendment.--The resolution or petition may set
27 forth the manner and basis of reclassifying the memberships in
28 or shares of the corporation. Any of the terms of a plan of
29 reclassification or other action contained in an amendment may
30 be made dependent upon facts ascertainable outside of the

amendment if the manner in which the facts will operate upon the terms of the amendment is set forth in the amendment. Such facts may include, without limitation, actions or events within the control of or determinations made by the corporation or a representative of the corporation.

§ 5922. Plan of merger or consolidation.

(a) Preparation of plan.--A plan of merger or consolidation, as the case may be, shall be prepared, setting forth:

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

[(2) The mode of carrying the merger or consolidation into effect.

(3)] (2) If the surviving or new corporation is or is to be a domestic nonprofit corporation:

(i) any changes desired to be made in the articles, which may include a restatement of the articles in the case of a merger; or

(ii) in the case of a consolidation, all of the statements required by this [article] subpart to be set forth in restated articles.

[(4)] (3) Such other [details and] provisions as are deemed desirable.

(b) Post-adoption amendment.--A plan of merger or consolidation may contain a provision that the boards of directors or other bodies of the constituent corporations may amend the plan at any time prior to its effective date, except that an amendment made subsequent to the adoption of the plan by the members of any constituent corporation shall not change:

(1) The term of memberships or the amount or kind of securities, obligations, cash, property or rights to be

1 received in exchange for or on conversion of all or any of
2 the memberships in the constituent corporation.

3 (2) Any term of the articles of the surviving or new
4 corporation to be effected by the merger or consolidation.

5 (3) Any of the terms and conditions of the plan if the
6 change would adversely affect the members of the constituent
7 corporation.

8 [(b)] (c) Proposal.--Every merger or consolidation shall be
9 proposed in the case of each domestic nonprofit corporation
10 [by]:

11 (1) by the adoption by the board of directors or other
12 body of a resolution approving the plan of merger or
13 consolidation;

14 (2) unless otherwise provided in the articles, by
15 petition of members entitled to cast at least 10% of the
16 votes [which] that all members are entitled to cast thereon,
17 setting forth the proposed plan of merger or consolidation,
18 which petition shall be directed to the board of directors
19 and filed with the secretary of the corporation; or

20 (3) by such other method as may be provided in the
21 bylaws.

22 [The] (d) Submission to members.--Except where the
23 corporation has no members entitled to vote thereon, the board
24 of directors or other body [or the petitioning members] shall
25 direct that the plan be submitted to a vote of the members
26 entitled to vote thereon at a regular or special meeting of the
27 members.

28 (e) Party to plan or transaction.--A corporation,
29 partnership, business trust or other association that approves a
30 plan in its capacity as a member or creditor of a merging or

consolidating corporation, or that furnishes all or a part of the consideration contemplated by a plan, does not thereby become a party to the plan or the merger or consolidation for the purposes of this subchapter.

(f) Reference to outside facts.--Any of the terms of a plan of merger or consolidation may be made dependent upon facts ascertainable outside of the plan if the manner in which the facts will operate upon the terms of the plan is set forth in the plan. Such facts may include, without limitation, actions or events within the control of or determinations made by a party to the plan or a representative of a party to the plan.

§ 5923. Notice of meeting of members.

(a) General rule.--Written notice of the meeting of members that will act on the proposed plan shall[, not less than ten days before the meeting of members called for the purpose of considering the proposed plan,] be given to each member of record, whether or not entitled to vote thereon, of each domestic nonprofit corporation that is a party to the merger or consolidation. There shall be included in, or enclosed with, [such] the notice a copy of the proposed plan or a summary thereof. The notice shall state that a copy of the bylaws of the surviving or new corporation will be furnished to any member on request and without cost.

(b) Cross reference.--See Subchapter A of Chapter 57 (relating to notice and meetings generally).

§ 5929. Effect of merger or consolidation.

(a) Single surviving or new corporation.--Upon the merger or consolidation becoming effective, the several corporations parties to the [plan of] merger or consolidation shall be a single corporation which, in the case of a merger, shall be

1 [that] the corporation designated in the plan of merger as the
2 surviving corporation[,] and, in the case of a consolidation,
3 shall be the new corporation provided for in the plan of
4 consolidation. The separate existence of all corporations
5 parties to the [plan of] merger or consolidation shall cease,
6 except that of the surviving corporation, in the case of a
7 merger. The surviving or new corporation, as the case may be, if
8 it is a domestic nonprofit corporation, shall not thereby
9 acquire authority to engage in any business or exercise any
10 right [which] that a corporation may not be incorporated under
11 this [article] subpart to engage in or exercise.

12 (b) Property rights.--Except as otherwise provided by order,
13 if any, obtained pursuant to section [5547(b)] 5547(c) (relating
14 to nondiversion of certain property), all the property, real,
15 personal[,] and mixed, and franchises of each of the
16 corporations parties to the [plan of] merger or consolidation,
17 and all debts due on whatever account to any of them, including
18 subscriptions for membership and other choses in action
19 belonging to any of them, shall be [taken and] deemed to be
20 [transferred to and] vested in and shall belong to the surviving
21 or new corporation, as the case may be, without further [act or
22 deed] action, and the title to any real estate, or any interest
23 therein, vested in any of the corporations shall not revert or
24 be in any way impaired by reason of the merger or consolidation.
25 The surviving or new corporation shall thenceforth be
26 responsible for all the liabilities [and obligations] of each of
27 the corporations so merged or consolidated. [No liens] Liens
28 upon the property of the merging or consolidating corporations
29 shall not be impaired by [such] the merger or consolidation, and
30 any claim existing or action or proceeding pending by or against

1 any of [such] the corporations may be prosecuted to judgment as
2 if [such] the merger or consolidation had not taken place, or
3 the surviving or new corporation may be proceeded against or
4 substituted in its place. Any devise, gift or grant contained in
5 any will or other instrument, in trust or otherwise, made before
6 or after such merger or consolidation, to or for any of the
7 constituent corporations, shall inure to the surviving or new
8 corporation, as the case may be, subject to compliance with the
9 requirements of section 5550 (relating to devises, bequests and
10 gifts after certain fundamental changes).

11 (c) Taxes.--Any taxes, penalties and public accounts of the
12 Commonwealth, claimed against any of the merging or
13 consolidating corporations, but not settled, assessed or
14 determined prior to [such] the merger or consolidation, shall be
15 settled, assessed or determined against the surviving or new
16 corporation[,] and, together with interest thereon, shall be a
17 lien against the franchises and property, both real and
18 personal, of the surviving or new corporation.

19 (d) Articles of incorporation.--In the case of a merger, the
20 articles of incorporation of the surviving domestic nonprofit
21 corporation, if any, shall be deemed to be amended to the
22 extent, if any, that changes in its articles are stated in the
23 plan of merger[; and in]. In the case of a consolidation into a
24 domestic nonprofit corporation, the statements [which] that are
25 set forth in the plan of consolidation, or articles of
26 incorporation set forth therein, shall be deemed to be the
27 articles of incorporation of the new corporation.

28 § 5952. Proposal and adoption of plan of division.

29 (a) Preparation of plan.--A plan of division shall be
30 prepared, setting forth:

1 (1) The terms and conditions of the division, including
2 the manner and basis of:

3 (i) [the] The reclassification of the membership
4 interests or shares [or obligations] of the surviving
5 corporation, if there be one[; and].

6 (ii) [the] The disposition of the membership
7 interests or shares [and] or obligations, if any, of the
8 new corporation or corporations resulting from the
9 division.

10 [(2) The mode of carrying the division into effect.

11 (3)] (2) A statement that the dividing nonprofit
12 corporation will, or will not, survive the division.

13 [(4)] (3) Any changes desired to be made in the articles
14 of the surviving corporation, if there be one, including a
15 restatement of the articles.

16 [(5)] (4) The articles of incorporation required by
17 subsection (b) [of this section].

18 [(6)] (5) Such other [details and] provisions as are
19 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 [article] subpart to be
24 set forth in restated articles, for each of the new domestic
25 nonprofit corporations, if any, resulting from the division.

26 (2) Articles of incorporation, certificates of
27 incorporation[,] or other charter documents for each of the
28 new foreign nonprofit corporations [not-for-profit], if any,
29 resulting from the division.

30 (c) Proposal and adoption.--[The] Except as otherwise

1 provided in section 5953 (relating to division without member
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 nonprofit 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 and
7 sale of assets) or, if the dividing corporation is a foreign
8 nonprofit corporation [not-for-profit], in accordance with the
9 laws of the jurisdiction in which it is incorporated[.] and, in
10 the case of a foreign domiciliary corporation, the provisions of
11 this subpart to the extent provided by section 6145 (relating to
12 applicability of certain safeguards to foreign corporations).
13 There shall be included in or enclosed with the notice of the
14 meeting of members that will act on the plan a copy or summary
15 of the plan.

16 (d) Special requirements.--If any provision of the bylaws of
17 a dividing domestic nonprofit corporation adopted before January
18 1, 1972 shall require for the adoption of a plan of merger or
19 consolidation or a plan involving the sale, lease or exchange of
20 all or substantially all of the property and assets of the
21 corporation a specific number or percentage of votes of
22 directors, members, or members of an other body or other special
23 procedures, the plan of division shall not be adopted without
24 such number or percentage of votes or compliance with such other
25 special procedures.

26 (e) Financial status of resulting corporations.--Unless the
27 plan of division provides that the dividing corporation shall
28 survive the division and that all membership interests or shares
29 or obligations, if any, of all new corporations resulting from
30 the plan shall be owned solely by the surviving corporation, no

1 plan of division may be made effective at a time when the
2 dividing corporation is insolvent or when the division would
3 render any of the resulting corporations insolvent.

4 (f) Rights of holders of indebtedness.--If any debt
5 securities, notes or similar evidences of indebtedness for money
6 borrowed, whether secured or unsecured, indentures or other
7 contracts were issued, incurred or executed by the dividing
8 corporation before January 1, 1972, and have not been amended
9 subsequent to that date, the liability of the dividing
10 corporation thereunder shall not be affected by the division nor
11 shall the rights of the obligees thereunder be impaired by the
12 division, and each of the resulting corporations may be
13 proceeded against or substituted in place of the dividing
14 corporation as joint and several obligors on such liability,
15 regardless of any provision of the plan of division apportioning
16 the liabilities of the dividing corporation.

17 (g) Reference to outside facts.--Any of the terms of a plan
18 of division may be made dependent upon facts ascertainable
19 outside of the plan if the manner in which the facts will
20 operate upon the terms of the plan is set forth in the plan.
21 Such facts may include, without limitation, actions or events
22 within the control of or determinations made by the dividing
23 corporation or a representative of the dividing corporation.

24 § 5953. [(Reserved).] Division without member approval.

25 Unless otherwise required by its bylaws or by section 5952
26 (relating to proposal and adoption of plan of division), a plan
27 of division that does not alter the state of incorporation of a
28 nonprofit corporation nor amend in any respect the provisions of
29 its articles, except amendments that under section 5914(b)
30 (relating to adoption in absence of voting members) may be made

1 without member action, shall not require the approval of the
2 members of the corporation if the transfers of assets effected
3 by the division, if effected by means of a sale, lease, exchange
4 or other disposition, would not require the approval of members
5 under section 5930 (relating to voluntary transfer of corporate
6 assets).

7 § 5957. Effect of division.

8 (a) Multiple resulting corporations.--Upon the division
9 becoming effective, the dividing corporation shall be subdivided
10 into the distinct and independent resulting corporations named
11 in the plan of division and, if the dividing corporation is not
12 to survive the division, the existence of the dividing
13 corporation shall cease. The resulting corporations, if they are
14 domestic nonprofit corporations, shall not thereby acquire
15 authority to engage in any business or exercise any right
16 [which] that a corporation may not be incorporated under this
17 [article] subpart to engage in or exercise. Any resulting
18 foreign nonprofit corporation [which] that is stated in the
19 articles of division to be a qualified foreign nonprofit
20 corporation shall be a qualified foreign nonprofit corporation
21 under [this subpart] Article C (relating to foreign nonprofit
22 corporations), and the articles of division shall be deemed to
23 be the application for a certificate of authority and the
24 certificate of authority issued thereon of [such] the
25 corporation.

26 (b) Property rights; allocations of assets and
27 liabilities.--

28 (1) Except as otherwise provided by order, if any,
29 obtained pursuant to section [5547(b)] 5547(c) (relating to
30 nondiversion of certain property)[, all]:

1 (i) All the property, real, personal[,] and mixed,
2 and franchises of the dividing corporation, and all debts
3 due on whatever account to it, including subscriptions
4 for membership and other choses in action belonging to
5 it, shall, to the extent allocations of assets are
6 contemplated by the plan of division, be [taken and]
7 deemed without further [act or deed] action to be
8 [transferred] allocated to and vested in the resulting
9 corporations on such a manner and basis and with such
10 effect as is specified in the plan [of division], or per
11 capita among the resulting corporations, as tenants in
12 common, if no [such] specification is made in the plan[.
13 The], and the title to any real estate, or interest
14 therein, vested in any of the corporations shall not
15 revert or be in any way impaired by reason of the
16 division.

17 (ii) Upon the division becoming effective, the
18 resulting corporations shall each thenceforth be
19 responsible as separate and distinct corporations only
20 for such liabilities [and obligations] as each
21 corporation may undertake or incur in its own name, but
22 shall be liable [inter se] for the [debts and]
23 liabilities of the dividing corporation in the manner and
24 on the basis [specified in the plan of division. No
25 liens] provided in paragraphs (4) and (5).

26 (iii) Liens upon the property of the dividing
27 corporation shall not be impaired by the division.

28 [One] (iv) To the extent allocations of liabilities
29 are contemplated by the plan of division, the liabilities
30 of the dividing corporation shall be deemed without

1 further action to be allocated to and become the
2 liabilities of the resulting corporations on such a
3 manner and basis and with such effect as is specified in
4 the plan; and one or more, but less than all, of the
5 resulting corporations shall be free of [all] the
6 liabilities [and obligations] of the dividing corporation
7 to the extent, if any, specified in the plan, if in
8 either case:

9 (A) no fraud [of corporate creditors or] on
10 members without voting rights [and if no] or
11 violation of law shall be effected thereby[,]; and
12 [if applicable provisions of law are complied with.
13 Otherwise, the liability]

14 (B) the plan does not constitute a fraudulent
15 transfer under 12 Pa.C.S. Ch. 51 (relating to
16 fraudulent transfers).

17 (v) If the conditions in subparagraph (iv) for
18 freeing one or more of the resulting corporations from
19 the liabilities of the dividing corporation, or for
20 allocating some or all of the liabilities of the dividing
21 corporation, are not satisfied, the liabilities of the
22 dividing corporation[, or of its members, directors, or
23 officers,] as to which those conditions are not satisfied
24 shall not be affected by the division[, nor shall the
25 rights of [the] creditors [thereof or of any person
26 dealing with such corporation] thereunder be impaired by
27 [such] the division[, and[, except as otherwise provided
28 in this section,] any claim existing or action or
29 proceeding pending by or against [such] the corporation
30 with respect to those liabilities may be prosecuted to

1 judgment as if [such] the division had not taken place,
2 or the resulting corporations may be proceeded against or
3 substituted in [its] place of the dividing corporation as
4 joint and several obligors on [such liability] those
5 liabilities, regardless of any provision of the plan of
6 division apportioning the [debts and] liabilities of the
7 dividing corporation.

8 (2) It shall not be necessary for a plan of division to
9 list each individual asset or liability of the dividing
10 corporation to be allocated to a new corporation so long as
11 those assets and liabilities are described in a reasonable
12 manner.

13 (3) Each new corporation shall hold any assets and
14 liabilities allocated to it as the successor to the dividing
15 corporation, and those assets and liabilities shall not be
16 deemed to have been assigned to the new corporation in any
17 manner, whether directly or indirectly or by operation of
18 law.

19 (c) Taxes.--Any taxes, penalties and public accounts of the
20 Commonwealth, claimed against the dividing corporation, but not
21 settled, assessed or determined prior to [such] the division,
22 shall be settled, assessed or determined against any of the
23 resulting corporations[, and, together with interest thereon,
24 shall be a lien against the franchises and property, both real
25 and personal, of all [such] the corporations. [The] Upon the
26 application of the dividing corporation, the Department of
27 Revenue [may, upon the application of the dividing corporation],
28 with the concurrence of the Office of Employment Security of the
29 Department of Labor and Industry, shall release one or more, but
30 less than all, of the resulting corporations from liability and

1 liens for all taxes, penalties and public accounts of the
2 dividing corporation due the Commonwealth [or any other taxing
3 authority] for periods prior to the effective date of the
4 division, if [the Department of Revenue is] those departments
5 are satisfied that the public revenues will be adequately
6 secured.

7 (d) Articles of surviving corporation.--The articles of
8 incorporation of the surviving corporation, if there be one,
9 shall be deemed to be amended to the extent, if any, that
10 changes in its articles are stated in the plan of division.

11 (e) Articles of new corporations.--The statements [which]
12 that are set forth in the plan of division with respect to each
13 new domestic nonprofit corporation and [which] that are required
14 or permitted to be set forth in restated articles of
15 incorporation of corporations incorporated under this [article]
16 subpart, or the articles of incorporation of each new
17 corporation set forth therein, shall be deemed to be the
18 articles of incorporation of each [such] new corporation.

19 (f) Directors and officers.--Unless otherwise provided in
20 the plan, the directors and officers of the dividing corporation
21 shall be the initial directors and officers of each of the
22 resulting corporations.

23 (g) Disposition of memberships.--Unless otherwise provided
24 in the plan, the memberships and other securities or
25 obligations, if any, of each new corporation resulting from the
26 division shall be distributable to:

27 (1) the surviving corporation, if the dividing
28 corporation survives the division; or

29 (2) the members of the dividing corporation pro rata, in
30 any other case.

1 (h) Conflict of laws.--It is the intent of the General
2 Assembly that:

3 (1) The effect of a division of a domestic business
4 corporation shall be governed solely by the laws of this
5 Commonwealth and any other jurisdiction under the laws of
6 which any of the resulting corporations is incorporated.

7 (2) The effect of a division on the assets and
8 liabilities of the dividing corporation shall be governed
9 solely by the laws of this Commonwealth and any other
10 jurisdiction under the laws of which any of the resulting
11 corporations is incorporated.

12 (3) The validity of any allocations of assets or
13 liabilities by a plan of division of a domestic business
14 corporation, regardless of whether or not any of the new
15 corporations is a foreign business corporation, shall be
16 governed solely by the laws of this Commonwealth.

17 (4) In addition to the express provisions of this
18 subsection, this subchapter shall otherwise generally be
19 granted the protection of full faith and credit under the
20 Constitution of the United States.

21 § 5961. Conversion authorized.

22 (a) General rule.--Any nonprofit corporation may, in the
23 manner provided in this subchapter, be converted into a business
24 corporation, [hereinafter] designated in this subchapter as the
25 resulting corporation.

26 ~~(b) Exceptions.--~~

27 ~~(1) This subchapter shall not authorize any conversion~~
28 ~~involving:~~

29 ~~[(i) A cooperative corporation.~~

30 ~~(ii)] (i) Beneficial, benevolent, fraternal or~~

1 ~~fraternal benefit societies having a lodge system and a~~
2 ~~representative form of government, or transacting any~~
3 ~~type of insurance whatsoever.~~

4 ~~[(iii)] (ii) Any corporation [which] that by the~~
5 ~~laws of this Commonwealth is subject to the supervision~~
6 ~~of the Department of Banking, the Insurance Department or~~
7 ~~the Pennsylvania Public Utility Commission, unless the~~
8 ~~agency expressly approves the transaction in writing.~~

9 ~~(2) [Paragraph (1) of this subsection] Subsection (a)~~
10 ~~shall not be construed as repealing any statute [which] that~~
11 ~~provides a procedure for the conversion of a nonprofit~~
12 ~~corporation into an insurance corporation.~~

13 * * *

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14 § 5962. Proposal and adoption of plan of conversion.

15 (a) Preparation of plan.--A plan of conversion shall be
16 prepared, setting forth:

17 (1) The terms and conditions of the conversion.

18 [(2) The mode of carrying the conversion into effect.

19 (3)] (2) A restatement of the articles of the resulting
20 corporation, which articles shall comply with the
21 requirements of [Subpart B of Part II (relating to business
22 corporations)] this part relating to business corporations.

23 [(4)] (3) Such other [details and] provisions as are
24 deemed desirable.

25 (b) Proposal and adoption.--The plan of conversion shall be
26 proposed and adopted, and may be amended after its adoption and
27 terminated, by the nonprofit corporation in the manner provided
28 for the proposal, adoption, amendment and termination of a plan
29 of merger in Subchapter C (relating to merger, consolidation and
30 sale of assets). There shall be included in or enclosed with the

1 notice of meeting of members of the nonprofit corporation that
2 will act upon the plan a copy or a summary of the plan.

3 (c) Reference to outside facts.--Any of the terms of a plan
4 of conversion may be made dependent upon facts ascertainable
5 outside of the plan if the manner in which the facts will
6 operate upon the terms of the plan is set forth in the plan.
7 Such facts may include, without limitation, actions or events
8 within the control of or determinations made by the corporation
9 or a representative of the corporation.

10 § 5964. Filing of articles of conversion.

11 (a) General rule.--The articles of conversion shall be filed
12 in the Department of State.

13 (b) Cross [reference.--See section] references.--See
14 sections 134 (relating to docketing statement) and 135 (relating
15 to requirements to be met by filed documents).

16 § 5965. Effective date of conversion.

17 Upon the filing of articles of conversion in the Department
18 of State[,] or upon the effective date specified in the plan of
19 conversion, whichever is later, the conversion shall become
20 effective.

21 § 5966. Effect of conversion.

22 Upon the conversion becoming effective, the converting
23 nonprofit corporation shall be deemed to be a business
24 corporation subject to the provisions of this part relating to
25 business corporations for all purposes, shall cease to be a
26 nonprofit corporation[,] and may thereafter operate for a
27 purpose or purposes resulting in pecuniary profit, incidental or
28 otherwise, to its members or shareholders. [The] Unless the
29 shares of the corporation are to be uncertificated, the
30 corporation shall issue share certificates to each shareholder

1 entitled thereto. The corporation shall remain liable for all
2 existing obligations, public [and] or private, and taxes due the
3 Commonwealth or any other taxing authority for periods prior to
4 the effective date of the conversion, and, as [such] a business
5 corporation, it shall continue to be entitled to all assets
6 theretofore pertaining to it as a nonprofit corporation except
7 as otherwise provided by order, if any, obtained pursuant to
8 section 5547(b) (relating to nondiversion of certain property).
9 § 5975. Predissolution provision for liabilities.

10 (a) Powers of board.--The board of directors or other body
11 of a nonprofit corporation that has elected to proceed under
12 this section shall have full power to wind up and settle the
13 affairs of [a nonprofit] the corporation in accordance with this
14 section prior to filing articles of dissolution in accordance
15 with section 5977 (relating to articles of dissolution).

16 (b) Notice to creditors and taxing authorities.--After the
17 approval by the members or the board of directors or other body
18 pursuant to section 5974(b) (relating to adoption in absence of
19 voting members) that the corporation dissolve voluntarily, the
20 corporation shall immediately cause notice of the winding up
21 proceedings to be officially published and to be mailed by
22 certified or registered mail to each known creditor and claimant
23 and to each municipal corporation in which [its registered
24 office or principal] it has a place of business in this
25 Commonwealth [is located].

26 (c) Winding up and distribution.--The corporation shall, as
27 speedily as possible, proceed to collect all sums due it,
28 convert into cash all corporate assets the conversion of which
29 into cash is required to discharge its liabilities and, out of
30 the assets of the corporation, discharge or make adequate

1 provision for the discharge of all liabilities of the
2 corporation, according to their respective priorities. Except as
3 otherwise provided in a bylaw adopted by the members or in this
4 subpart or by any other provision of law, any surplus remaining
5 after paying or providing for all liabilities of the corporation
6 shall be distributed to the shareholders, if any, pro rata, or
7 if there be no shareholders, among the members per capita. See
8 section 1972(a) (relating to proposal of voluntary dissolution).
9 § 5976. Judicial supervision of proceedings.

10 (a) General rule.--A nonprofit corporation that has elected
11 to proceed under section 1975 (relating to predissolution
12 provision for liabilities), at any time during the winding up
13 proceedings, may apply to the court to have the proceedings
14 continued under the supervision of the court and thereafter the
15 proceedings shall continue under the supervision of the court as
16 provided in Subchapter G (relating to involuntary liquidation
17 and dissolution).

18 * * *

19 § 5977. Articles of dissolution.

20 * * *

21 (b) Contents of articles.--The articles of dissolution shall
22 be executed by the corporation and shall set forth:

23 * * *

24 (5) A statement that:

25 (i) [that] all liabilities of the corporation have
26 been discharged or that adequate provision has been made
27 therefor; [or]

28 (ii) [that] the assets of the corporation are not
29 sufficient to discharge its liabilities, and that all the
30 assets of the corporation have been fairly and equitably

1 applied, as far as they will go, to the payment of such
2 liabilities[. An election by]; or

3 (iii) the corporation has elected to proceed under
4 Subchapter H [shall constitute the making of adequate
5 provision for the liabilities of the corporation,
6 including any judgment or decree that may be obtained
7 against the corporation in any pending action or
8 proceeding].

9 * * *

10 (7) [A] In the case of a corporation that has not
11 elected to proceed under Subchapter H, a statement that no
12 actions or proceedings are pending against the corporation in
13 any court, or that adequate provision has been made for the
14 satisfaction of any judgment or decree that may be obtained
15 against the corporation in each pending action or proceeding.

16 (8) [A] In the case of a corporation that has not
17 elected to proceed under Subchapter H, a statement that
18 notice of the winding-up proceedings of the corporation was
19 mailed by certified or registered mail to each known creditor
20 and claimant and to each municipal corporation in which the
21 [registered office or principal place of business of the]
22 corporation has a place of business in this Commonwealth [is
23 located].

24 * * *

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

28 § 5989. Articles of involuntary dissolution.

29 (a) General rule.--In a proceeding under this subchapter,
30 the court shall enter an order dissolving the nonprofit

1 corporation when the order, if any, obtained pursuant to section
2 5547(b) (relating to nondiversion of certain property) has been
3 entered and when the costs and expenses of the proceeding, and
4 all liabilities of the corporation have been discharged, and all
5 of its remaining assets have been distributed to the persons
6 entitled thereto, or, in case its assets are not sufficient to
7 discharge such costs, expenses and liabilities, when all the
8 assets have been applied, as far as they will go, to the payment
9 of such costs, expenses and liabilities. See section 139(b)
10 (relating to tax clearance in judicial proceedings).

11 (b) Filing.--After entry of an order of dissolution, the
12 office of the clerk of the court of common pleas shall prepare
13 and execute articles of dissolution substantially in the form
14 provided by section 5977 (relating to articles of dissolution),
15 attach thereto a certified copy of the order and transmit the
16 articles and attached order to the Department of State. [A
17 certificate or statement provided for by section 139 (relating
18 to tax clearance of certain fundamental transactions) shall not
19 be required, and the] The department shall not charge a fee in
20 connection with the filing of articles of dissolution under this
21 section. See [section] sections 134 (relating to docketing
22 statement) and 135 (relating to requirements to be met by filed
23 documents).

24 * * *

25 § 5991.1. Authority of board of directors.

26 (a) General rule.--The board of directors or other body of a
27 nonprofit corporation that has elected to proceed under this
28 subchapter shall have full power to wind up and settle the
29 affairs of the corporation in accordance with this subchapter
30 both prior to and after the filing of articles of dissolution in

1 accordance with section 5977 (relating to articles of
2 dissolution).

3 (b) Winding up.--The corporation shall, as speedily as
4 possible, proceed to comply with the requirements of this
5 subchapter while simultaneously collecting all sums due it and
6 converting into cash all corporate assets, the conversion of
7 which into cash is required to make adequate provision for its
8 liabilities.

9 § 6126. Amended certificate of authority.

10 (a) General rule.--After receiving a certificate of
11 authority, a qualified foreign nonprofit corporation may,
12 subject to the provisions of this subchapter, change [the name
13 under which it is authorized to transact business in this
14 Commonwealth] or correct any of the information set forth in its
15 application for a certificate of authority or previous filings
16 under this section by filing in the Department of State an
17 application for an amended certificate of authority. The
18 application shall be executed by the corporation and shall
19 state:

20 (1) The name under which the applicant corporation
21 currently holds a certificate of authority to do business in
22 this Commonwealth.

23 [(2) The name of the jurisdiction under the laws of
24 which the corporation is incorporated.

25 (3) The address, including street and number, if any, of
26 its principal office under the laws of the jurisdiction in
27 which it is incorporated.

28 (4)] (2) Subject to section 109 (relating to name of
29 commercial registered office provider in lieu of registered
30 address), the address, including street and number, if any,

of its registered office in this Commonwealth. [which may constitute a change in the address of its registered office.

(5) The new name of the corporation and]

(3) The information to be changed or corrected.

(4) If the application reflects a change in the name of the corporation, the application shall include a statement that either:

(i) the change of name reflects a change effected in the jurisdiction of incorporation; or

(ii) documents complying with section 6123(b) (relating to exceptions) accompany the application.

(b) Issuance of amended certificate of authority.--Upon the filing of the application, the applicant corporation shall be deemed to hold an amended certificate of authority.

(c) Cross reference.--See section 134 (relating to docketing statement).

§ 6146. Provisions applicable to all foreign corporations.

The following provisions of this subpart shall, except as otherwise provided in this section, be applicable to every foreign corporation not-for-profit, whether or not required to procure a certificate of authority under this chapter:

Section 5503 (relating to defense of ultra vires), as to contracts and conveyances governed by the laws of this Commonwealth and conveyances affecting real property situated in this Commonwealth.

Section 5506 (relating to form of execution of instruments), as to instruments or other documents governed by the laws of this Commonwealth or affecting real property situated in this Commonwealth.

Section 5510 (relating to certain specifically authorized

1 debt terms), as to obligations (as defined in the section)
2 governed by the laws of this Commonwealth or affecting real
3 property situated in this Commonwealth.

4 Section 5782 (relating to actions against directors,
5 members of an other body and officers), as to any action or
6 proceeding brought in a court of this Commonwealth.

7 § 8105. Ownership of certain professional partnerships.

8 Except as otherwise provided by statute, rule or regulation
9 applicable to a particular profession, all of the [partners in]
10 ultimate beneficial owners of the partnership interests in a
11 partnership that renders one or more restricted professional
12 services shall be licensed persons. As used in this section,
13 the term "restricted professional services" shall have the
14 meaning specified in section 8903 (relating to definitions and
15 index of definitions).

16 § 8201. Scope.

17 * * *

18 (e) Prohibited termination.--A registration under this
19 subchapter may not be terminated while the partnership is a
20 bankrupt as that term is defined in section 8903 (relating to
21 definitions and index of definitions). See section 8221(f)
22 (relating to annual registration).

23 (f) Alternative procedure.--In lieu of filing a statement of
24 registration as provided in subsection (a), a limited
25 partnership may register as a registered limited liability
26 partnership by including in its certificate of limited
27 partnership, either originally or by amendment, the statements
28 required by subsection (a)(3) and (4). To terminate its
29 registration, a limited partnership that uses the procedure
30 authorized by this subsection shall amend its certificate of

1 limited partnership to delete the statements required by this
2 subsection.

3 (g) Constructive notice.--Filing under this section shall
4 constitute constructive notice that the partnership is a
5 registered limited liability partnership and that the partners
6 are entitled to the protections from liability provided by this
7 subchapter.

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

11 § 8202. Definitions.

12 The following words and phrases when used in this chapter
13 shall have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 * * *

16 "Partner." Includes a person who is or was a partner in a
17 registered limited liability partnership at any time while the
18 registration of the partnership under this subchapter is or was
19 in effect.

20 * * *

21 § 8204. Limitation on liability of partners.

22 (a) General rule.--Except as provided in subsection (b), a
23 partner in a registered limited liability partnership shall not
24 be individually liable directly or indirectly, whether by way of
25 indemnification, contribution or otherwise, for debts and
26 obligations of, or chargeable to, the partnership, whether
27 sounding in contract or tort or otherwise, that arise from any
28 negligent or wrongful acts or misconduct committed by another
29 partner or other representative of the partnership while the
30 registration of the partnership under this subchapter is in

1 effect.

2 (b) Exceptions.--

3 (1) [Subsection (a) shall not apply to any debt or
4 obligation with respect to which the partnership is not in
5 compliance with section 8206(a) (relating to insurance).]

6 (Repealed).

7 * * *

8 (3) Subsection (a) shall not affect in any way:

9 (i) the liability of the partnership itself for all
10 its debts and obligations; [or]

11 (ii) the availability of the entire assets of the
12 partnership to satisfy its debts and obligations; or

13 (iii) any obligation undertaken by a partner in
14 writing to individually indemnify another partner of the
15 partnership or to individually contribute toward a
16 liability of another partner.

17 * * *

18 § 8205. Liability of withdrawing partner.

19 * * *

20 (b) Exceptions.--Subsection (a) shall not affect the
21 liability of a partner:

22 * * *

23 (7) For any obligation undertaken by a partner in
24 writing to individually indemnify another partner of the
25 partnership or to individually contribute toward a liability
26 of another partner.

27 * * *

28 (e) Permissive filing.--Filing under this section is
29 permissive, and failure to make a filing under this section by a
30 partner entitled to do so shall not affect the right of that

1 partner to the limitation on liability provided by section 8204
2 (relating to limitation on liability of partners).

3 (f) Constructive notice.--Filing under this section shall
4 constitute constructive notice that the partner has withdrawn
5 from the partnership and is entitled to the protection from
6 liability provided by this section.

7 (g) Variation of section.--A written provision of the
8 partnership agreement may restrict or condition the application
9 of this section to some or all of the partners of the
10 partnership.

11 (h) Application of section.--A partner in a foreign
12 registered limited liability partnership, regardless of whether
13 or not it has registered to do business in this Commonwealth
14 under section 8211 (relating to foreign registered limited
15 liability partnerships), shall not be entitled to make a filing
16 under this section with regard to that partnership.

17 [(e)] (i) Cross references.--See sections 134 (relating to
18 docketing statement) and 135 (relating to requirements to be met
19 by filed documents).

20 § 8211. Foreign registered limited liability partnerships.

21 (a) Governing law.--Subject to the Constitution of
22 Pennsylvania:

23 (1) The laws of the jurisdiction under which a foreign
24 registered limited liability partnership is organized govern
25 its organization and internal affairs and the liability of
26 its partners, except as provided in subsection (c).

27 (2) A foreign registered limited liability partnership
28 may not be denied registration by reason of any difference
29 between those laws and the laws of this Commonwealth.

30 (b) Registration to do business.--A foreign registered

1 limited liability partnership, regardless of whether or not it
2 is also a foreign limited partnership, shall be subject to
3 Subchapter K of Chapter 85 (relating to foreign limited
4 partnerships) as if it were a foreign limited partnership,
5 except that [the]:

6 (1) Its application for registration shall state that it
7 is a registered limited liability partnership.

8 (2) The name under which [the foreign registered limited
9 liability partnership] it registers and conducts business in
10 this Commonwealth shall comply with the requirements of
11 section 8203 (relating to name).

12 (3) Section 8582(a)(5) and (6) (relating to
13 registration) shall not be applicable to the application for
14 registration of a foreign limited liability partnership that
15 is not a foreign limited partnership.

16 (c) Exception.--The liability of the partners in a foreign
17 registered limited liability partnership shall be governed by
18 the laws of the jurisdiction under which it is organized, except
19 that the partners shall not be entitled to greater protection
20 from liability than is available to the partners in a domestic
21 registered limited liability partnership.

22 § 8221. Annual registration.

23 * * *

24 (e) [Annual fee to be lien] Failure to pay annual fee.--

25 (1) Failure to [pay the annual registration fee imposed]
26 file the certificate of annual registration required by this
27 section [shall not affect the existence or] for five
28 consecutive years shall result in the automatic termination
29 of the status of the registered limited liability partnership
30 as such[, but the]. In addition, any annual registration fee

1 that is not paid when due shall be a lien in the manner
2 provided in this subsection from the time the annual
3 registration fee is due and payable [upon]. If a certificate
4 of annual registration is not filed within 30 days after the
5 date on which it is due, the department shall assess a
6 penalty of \$500 against the partnership, which shall also be
7 a lien in the manner provided in this subsection. The
8 imposition of that penalty shall not be construed to relieve
9 the partnership from liability for any other penalty or
10 interest provided for under other applicable law.

11 (2) If the annual registration fee paid by a registered
12 limited liability partnership is subsequently determined to
13 be less than should have been paid because it was based on an
14 incorrect number of general partners or was otherwise
15 incorrectly computed, that fact shall not affect the
16 existence or status of the registered limited liability
17 partnership as such, but the amount of the additional annual
18 registration fee that should have been paid shall be a lien
19 in the manner provided in this subsection from the time the
20 incorrect payment is discovered by the department.

21 (3) The annual registration fee shall bear simple
22 interest from the date that it becomes due and payable until
23 paid. The interest rate shall be that provided for in section
24 806 of the act of April 9, 1929 (P.L.343, No.176), known as
25 The Fiscal Code, with respect to unpaid taxes. The penalty
26 provided for in paragraph (1) shall not bear interest. The
27 payment of interest shall not relieve the registered limited
28 liability partnership from liability for any other penalty or
29 interest provided for under other applicable law.

30 (4) The lien created by this subsection shall attach to

1 all of the property and proceeds thereof of the registered
2 limited liability partnership in which a security interest
3 can be perfected in whole or in part by filing in the
4 department under 13 Pa.C.S. Div. 9 (relating to secured
5 transactions; sales of accounts, contract rights and chattel
6 paper), whether the property and proceeds are owned by the
7 partnership at the time the annual registration fee or any
8 penalty or interest becomes due and payable or whether the
9 property and proceeds are acquired thereafter. Except as
10 otherwise provided by statute, the lien created by this
11 subsection shall have priority over all other liens, security
12 interests or other charges, except liens for taxes or other
13 charges due the Commonwealth. The lien created by this
14 subsection shall be entered on the records of the department
15 and indexed in the same manner as a financing statement filed
16 under 13 Pa.C.S. Div. 9. At the time an annual registration
17 fee, penalty or interest that has resulted in the creation of
18 a lien under this subsection is paid, the department shall
19 terminate the lien with respect to that annual registration
20 fee, penalty or interest without requiring a separate filing
21 by the partnership for that purpose.

22 (5) If the annual registration fee paid by a registered
23 limited liability partnership is subsequently determined to
24 be more than should have been paid for any reason, no refund
25 of the additional fee shall be made.

26 (6) Termination of the status of a registered limited
27 liability partnership as such, whether voluntarily or
28 involuntarily, shall not release it from the obligation to
29 pay any accrued fees, penalties and interest and shall not
30 release the lien created by this subsection.

1 (f) Exception for bankrupt partnerships.--A partnership that
2 would otherwise be required to pay the annual registration fee
3 set forth in subsection (b) shall not be required to pay that
4 fee with respect to any year during any part of which the
5 partnership is a bankrupt as defined in section 8903 (relating
6 to definitions and index of definitions). The partnership shall,
7 instead, indicate on its certificate of annual registration for
8 that year that it is exempt from payment of the annual
9 registration fee pursuant to this subsection. If the partnership
10 fails to file timely a certificate of annual registration, a
11 lien shall be entered on the records of the department pursuant
12 to subsection (e) which shall not be removed until the
13 partnership files a certificate of annual registration
14 indicating its entitlement to an exemption from payment of the
15 annual registration fee as provided in this subsection. See
16 section 8201(e) (relating to scope).

17 § 8359. Right to wind up affairs.

18 Unless otherwise agreed, the partners who have not wrongfully
19 dissolved the partnership, or the legal representative of the
20 last surviving partner, not bankrupt, has the right to wind up
21 the partnership affairs except that any partner, his legal
22 representative or his assignee, upon cause shown, may obtain
23 winding up by the court. See section 139(b) (relating to tax
24 clearance in judicial proceedings).

25 § 8503. Definitions and index of definitions.

26 (a) Definitions.--The following words and phrases when used
27 in this chapter shall have the meanings given to them in this
28 section unless the context clearly indicates otherwise:

29 "Certificate of limited partnership." The certificate
30 referred to in section 8511 (relating to certificate of limited

1 partnership) and the certificate as amended. The term includes
2 any other statements or certificates permitted or required to be
3 filed in the Department of State by sections 108 (relating to
4 change in location or status of registered office provided by
5 agent) and 138 (relating to statement of correction) or this
6 part. If an amendment of the certificate of limited partnership
7 or a certificate of merger or division made in the manner
8 permitted by this chapter restates the certificate in its
9 entirety or if there is a certificate of consolidation,
10 thenceforth the "certificate of limited partnership" shall not
11 include any prior documents and any certificate issued by the
12 department with respect thereto shall so state.

13 * * *

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

16 (1) the court of common pleas of the judicial district
17 embracing the county where the registered office of the
18 limited partnership is or is to be located; or

19 (2) where a limited partnership results from a merger,
20 consolidation, division or other transaction without
21 establishing a registered office in this Commonwealth or
22 withdraws as a foreign limited partnership, the court of
23 common pleas in which venue would have been laid immediately
24 prior to the transaction or withdrawal.

25 ["Department." The Department of State of the Commonwealth.]

26 * * *

27 "Partnership agreement." Any agreement, written or oral, of
28 the partners as to the affairs of a limited partnership and the
29 conduct of its business. [A written partnership agreement:

30 (1) May provide that a person shall be admitted as a

1 limited partner, or shall become an assignee of a partnership
2 interest or other rights or powers of a limited partner to
3 the extent assigned, and shall become bound by the
4 partnership agreement:

5 (i) if such person (or a representative authorized
6 by such person orally, in writing or by other action such
7 as payment for a partnership interest) executes the
8 partnership agreement or any other writing evidencing the
9 intent of such person to become a limited partner or
10 assignee; or

11 (ii) without such execution, if such person (or a
12 representative authorized by such person orally, in
13 writing or by other action such as payment for a
14 partnership interest) complies with the conditions for
15 becoming a limited partner or assignee as set forth in
16 the partnership agreement or any other writing and
17 requests (orally, in writing or by other action such as
18 payment for a partnership interest) that the records of
19 the limited partnership reflect such admission or
20 assignment.

21 (2) Shall not be unenforceable by reason of its not
22 having been signed by a person being admitted as a limited
23 partner or becoming an assignee as provided in paragraph (1)
24 or by reason of its having been signed by a representative as
25 provided in section 8514(b) (relating to attorney-in-fact).

26 (3) May provide that, whenever a provision of this
27 chapter requires the vote or consent of a specified number or
28 percentage of partners or of a class of partners for the
29 taking of any action, a higher number or percentage of votes
30 or consents shall be required for the action. Except as

otherwise provided in the partnership agreement, whenever the partnership agreement requires for the taking of any action by the partners or a class of partners a specific number or percentage of votes or consents, the provision of the partnership agreement setting forth that requirement shall not be amended or repealed by any lesser number or percentage of votes or consents of the partners or the class of partners.]

* * *

"Relax." When used with respect to a provision of the certificate of limited partnership or partnership agreement, means to provide lesser rights for an affected representative or partner.

(b) Index of definitions.--Other definitions applying to this chapter and the sections in which they appear are:

"Act" or "action." Section 102.

"Department." Section 102.

"Licensed person." Section 102.

"Professional services." Section 102.

§ 8510. Indemnification.

* * *

(b) When indemnification is not to be made.--Indemnification pursuant to subsection (a) shall not be made in any case where the act [or failure to act] giving rise to the claim for indemnification is determined by a court to have constituted willful misconduct or recklessness. The certificate of limited partnership or partnership agreement may not provide for indemnification in the case of willful misconduct or recklessness.

* * *

1 internal affairs of the limited partnership, except where a
2 provision of this chapter expressly provides that the
3 certificate of limited partnership shall not relax or
4 contravene any provision on a specified subject.

5 (b) Effective date of formation.--A limited partnership is
6 formed at the time of the filing of the certificate of limited
7 partnership in the department or at any later time specified in
8 the certificate of limited partnership if, in either case, there
9 has been substantial compliance with the requirements of this
10 section or the corresponding provisions of prior law.

11 (c) [Duties of recorders of deeds.--Each recorder of deeds
12 shall continue to keep open for public inspection the record of
13 limited partnership certificates recorded under the statutes
14 supplied by this chapter and by prior law the custody of which
15 has not been transferred to the department pursuant to section
16 140 (relating to custody and management of orphan corporate and
17 business records).] (Repealed).

18 (d) Transitional provision.--A limited partnership formed
19 under prior law shall not be required to set forth in its
20 certificate of limited partnership a registered office or the
21 business address of each general partner until such time as it
22 first amends its certificate of limited partnership under this
23 chapter.

24 (e) Effect of provisions.--A provision of the certificate of
25 limited partnership shall be deemed to be a provision of the
26 partnership agreement for purposes of any provision of this
27 chapter that refers to a rule as set forth in the partnership
28 agreement.

29 [(e)] (f) Cross references.--See sections 134 (relating to
30 docketing statement), 135 (relating to requirements to be met by

1 filed documents) and 8514 (relating to execution of
2 certificates).

3 § 8517. Notice.

4 The fact that a certificate of limited partnership is on file
5 in the Department of State is not notice of any fact other than:

6 (1) that the partnership is a limited partnership and
7 that all partners are limited partners except the persons
8 designated therein as general partners[, but it is not notice
9 of any other fact]; and

10 (2) if it is registered under Chapter 82 (relating to
11 registered limited liability partnerships), that it is also a
12 registered limited liability partnership.

13 § 8519. Filing of certificate of summary of record by limited
14 partnerships formed prior to 1976.

15 (a) General rule.--[Any limited partnership that was not
16 formed under this chapter, has never made any filing under this
17 section or corresponding provisions of prior law and] Where any
18 of the organic documents of a limited partnership are not on
19 file in the Department of State or there is an error in any such
20 document as transferred to the department pursuant to section
21 140 (relating to custody and management of orphan corporate and
22 business records), and the limited partnership desires to file
23 any document in the [Department of State] department under any
24 other provision of this chapter or [that desires] to secure from
25 the department a certified copy of the certificate of limited
26 partnership or to correct the text of its organic documents as
27 on file in the department, the limited partnership shall file in
28 the department a certificate of summary of record which shall
29 set forth:

30 (1) The name of the limited partnership.

1 (2) Subject to section 109 (relating to name of
2 commercial registered office provider in lieu of registered
3 address), the address, including street and number, if any,
4 of its registered office.

5 (3) The statute under which the limited partnership was
6 formed.

7 (4) The name under which, and the date on which, the
8 limited partnership was originally formed, including the date
9 when and the place where the original certificate was
10 recorded.

11 (5) The place or places, including the volume and page
12 numbers or their equivalent, where the documents
13 [constituting the currently effective certificate are] that
14 are not on file in the department or that require correction
15 in the records of the department where originally recorded,
16 the date or dates of each recording and the correct text of
17 the [currently effective certificate] documents. The
18 information specified in this paragraph may be omitted in a
19 certificate of summary of record that is delivered to the
20 department contemporaneously with an amended certificate
21 filed under this chapter that restates the certificate in its
22 entirety.

23 [(6) Each name by which the limited partnership was
24 known, if any, other than its original name and its current
25 name and the date or dates on which each change of name of
26 the partnership became effective.]

27 (b) 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 § 8520. Partnership agreement.

2 (a) Admission of limited partners.--A partnership agreement
3 may provide in writing that a person shall be admitted as a
4 limited partner, or shall become an assignee of a partnership
5 interest or other rights or powers of a limited partner to the
6 extent assigned, and shall become bound by the partnership
7 agreement:

8 (1) if such person (or a representative authorized by
9 such person orally, in writing or by other action such as
10 payment for a partnership interest) executes the partnership
11 agreement or any other writing evidencing the intent of such
12 person to become a limited partner or assignee; or

13 (2) without such execution, if such person (or a
14 representative authorized by such person orally, in writing
15 or by other action such as payment for a partnership
16 interest) complies with the conditions for becoming a limited
17 partner or assignee as set forth in the partnership agreement
18 or any other writing and requests (orally, in writing or by
19 other action such as payment for a partnership interest) that
20 the records of the limited partnership reflect such admission
21 or assignment.

22 (b) Signature by limited partners.--A written partnership
23 agreement shall not be unenforceable by reason of its not having
24 been signed by a person being admitted as a limited partner or
25 becoming an assignee as provided in subsection (a) or by reason
26 of its having been signed by a representative as provided in
27 section 8514(b) (relating to attorney-in-fact).

28 (c) Voting requirements.--A partnership agreement may
29 provide in writing that, whenever a provision of this chapter
30 requires the vote or consent of a specified number or percentage

1 of partners or of a class of partners for the taking of any
2 action, a higher number or percentage of votes or consents shall
3 be required for the action. Except as otherwise provided in the
4 partnership agreement, whenever the partnership agreement
5 requires for the taking of any action by the partners or a class
6 of partners a specific number or percentage of votes or
7 consents, the provision of the partnership agreement setting
8 forth that requirement shall not be amended or repealed by any
9 lesser number or percentage of votes or consents of the partners
10 or the class of partners.

11 (d) Freedom of contract.--A written partnership agreement
12 may contain any provision for the regulation of the internal
13 affairs of the limited partnership agreed to by the partners,
14 whether or not specifically authorized by or in contravention of
15 this chapter, except where this chapter:

16 (1) refers only to a rule as set forth in the
17 certificate of limited partnership; or

18 (2) expressly provides that the partnership agreement
19 shall not relax or contravene any provision on a specified
20 subject.

21 (e) Oral provisions.--A partnership agreement may provide in
22 writing that it cannot be amended or modified except in writing,
23 in which case an oral agreement, amendment or modification shall
24 not be enforceable.

25 (f) Cross reference.--See section 8511(a)(5) (relating to
26 certificate of limited partnership).

27 § 8523. Liability of limited partners to third parties.

28 (a) General rule.--A limited partner is not liable [for the
29 obligations of a limited partnership unless he is also a general
30 partner or, in addition to the exercise of his rights and powers

1 as a limited partner, he participates in the control of the
2 business. However, if the limited partner participates in the
3 control of the business, he is liable only to persons who
4 transact business with the limited partnership reasonably
5 believing, based upon the conduct of the limited partner, that
6 the limited partner is a general partner.], solely by reason of
7 being a limited partner, under an order of a court or in any
8 other manner, for a debt, obligation or liability of the limited
9 partnership of any kind or for the acts of any partner, agent or
10 employee of the limited partnership.

11 (b) [Activities compatible with limited partner status.--A
12 limited partner does not participate in the control of the
13 business within the meaning of subsection (a) solely by doing
14 one or more of the following:

15 (1) Being a contractor for, or an agent or employee of
16 the limited partnership or of a general partner, or being an
17 officer, director, trustee, partner or shareholder of a
18 general partner.

19 (2) Consulting with and advising a general partner with
20 respect to any matter, including, without limitation, the
21 business of the limited partnership.

22 (3) (i) Acting as surety for the limited partnership,
23 or guaranteeing, endorsing or assuming one or more
24 specific obligations of the limited partnership, or a
25 general partner.

26 (ii) Borrowing money from the limited partnership or
27 a general partner.

28 (iii) Lending money to the limited partnership or a
29 general partner.

30 (iv) Providing collateral for the limited

1 partnership or a general partner.

2 (4) Taking any action required or permitted by law to
3 bring, pursue or settle or otherwise terminate a derivative
4 action in the right of the limited partnership.

5 (5) Requesting or attending a meeting of partners.

6 (6) Acting or causing the taking or refraining from the
7 taking of any action, including, without limitation, by
8 proposing, approving, consenting or disapproving, by voting
9 or otherwise, with respect to one or more of the following
10 matters:

11 (i) The dissolution and winding up of the limited
12 partnership, or an election to continue the limited
13 partnership or the business of the limited partnership.

14 (ii) The sale, exchange, lease, mortgage, pledge or
15 other transfer of, or the grant of a security interest
16 in, any asset or assets of the limited partnership.

17 (iii) The incurrence, renewal, refinancing or
18 payment or other discharge of indebtedness by the limited
19 partnership.

20 (iv) A change in the nature of the business.

21 (v) The admission or removal of a general partner.

22 (vi) The admission or removal of a limited partner.

23 (vii) A transaction involving an actual or potential
24 conflict of interest between a general partner and the
25 limited partnership or the limited partners.

26 (viii) An amendment to the partnership agreement or
27 certificate of limited partnership.

28 (ix) The merger or consolidation of the limited
29 partnership.

30 (x) The indemnification of any partner or other

1 person.

2 (xi) Matters related to the business of the limited
3 partnership not otherwise enumerated in this subsection,
4 which the partnership agreement states in writing may be
5 subject to the approval or disapproval of limited
6 partners.

7 (7) Applying for dissolution of the partnership pursuant
8 to section 8572 (relating to judicial dissolution).

9 (8) Winding up the limited partnership pursuant to
10 section 8573 (relating to winding up).

11 (9) In the case of a registered investment company,
12 voting on one or more of the following matters:

13 (i) The approval or termination of investment
14 advisory or underwriting contracts.

15 (ii) The approval of auditors.

16 (iii) Any other matter that by reason of the
17 Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. §
18 80a-1 et seq.) the general partners consider to be a
19 proper matter for the vote of the holders of voting
20 securities or beneficial interests in the limited
21 partnership.

22 (10) Serving on a committee of the limited partnership
23 or the limited partners.

24 (11) Exercising any right or power permitted to limited
25 partners under this chapter and not specifically enumerated
26 in this subsection.

27 (12) Exercising any other right or power stated in the
28 partnership agreement.] (Repealed).

29 (c) [Enumeration nonexclusive.--The enumeration in
30 subsection (b) does not mean that the possession or exercise of

1 any other powers, or having or acting in other capacities, by a
2 limited partner constitutes participation by him in the control
3 of the business of the limited partnership.] (Repealed).

4 (d) Use of name of limited partner.--A limited partner does
5 not [participate in the control of the business within the
6 meaning of subsection (a)] become liable for the obligations of
7 a limited partnership by reason of the fact that all or any part
8 of the name of the limited partner is included in the name of
9 the limited partnership.

10 (e) [Effect of section.--This section does not create rights
11 or powers of limited partners. Such rights and powers may be
12 created only by the certificate of limited partnership,
13 partnership agreement or any other agreement or other provisions
14 of this chapter.] (Repealed).

15 * * *

16 § 8546. Approval of merger or consolidation.

17 (a) Preparation of plan of merger or consolidation.--A plan
18 of merger or consolidation, as the case may be, shall be
19 prepared, setting forth:

20 * * *

21 (3) The manner and basis of converting the partnership
22 interests of each limited partnership into partnership
23 interests, securities or obligations of the surviving or new
24 limited partnership, as the case may be, and, if any of the
25 partnership interests of any of the limited partnerships that
26 are parties to the [plan] merger or consolidation are not to
27 be converted solely into partnership interests, securities or
28 obligations of the surviving or new limited partnership, the
29 partnership interests, securities or obligations of any other
30 person or cash, property or rights that the holders of such

1 partnership interests are to receive in exchange for, or upon
2 conversion of, such partnership interests, and the surrender
3 of any certificates evidencing them, which securities or
4 obligations, if any, of any other person or cash, property or
5 rights may be in addition to or in lieu of the partnership
6 interests, securities or obligations of the surviving or new
7 limited partnership.

8 (4) Such other provisions as are deemed desirable.

9 [Any of the terms of the plan may be made dependent upon facts
10 ascertainable outside of the plan if the manner in which the
11 facts will operate upon the terms of the plan is set forth in
12 the plan.]

13 (b) Post-adoption amendment of plan of merger or
14 consolidation.--A plan of merger or consolidation may contain a
15 provision that the general partners of the constituent limited
16 partnerships may amend the plan at any time prior to its
17 effective date, except that an amendment made subsequent to any
18 adoption of the plan by the limited partners of any constituent
19 domestic limited partnership shall not change:

20 (1) The amount or kind of partnership interests,
21 obligations, cash, property or rights to be received in
22 exchange for or on conversion of all or any of the
23 partnership interests of the constituent domestic limited
24 partnership adversely to the holders of those partnership
25 interests.

26 (2) Any term of the certificate of limited partnership
27 or partnership agreement of the surviving or new limited
28 partnership [to be effected by] as it is to be in effect
29 immediately following consummation of the merger or
30 consolidation except provisions that may be amended without

1 the approval of the limited partners.

2 (3) Any of the other terms and conditions of the plan if
3 the change would adversely affect the holders of any
4 partnership interests of the constituent domestic limited
5 partnership.

6 * * *

7 (d) Party to plan.--[A limited partnership] An association
8 that approves a plan in its capacity as a partner or creditor of
9 a merging or consolidating limited partnership, or that
10 furnishes all or a part of the consideration contemplated by a
11 plan, does not thereby become a party to the [plan] merger or
12 consolidation for the purposes of this subchapter.

13 (e) Notice of meeting of limited partners.--Notwithstanding
14 any other provision of the partnership agreement, written notice
15 of the meeting of limited partners called for the purpose of
16 considering the proposed plan shall be given to each limited
17 partner of record, whether or not entitled to vote thereon, of
18 each domestic limited partnership that is a party to the [plan]
19 proposed merger or consolidation. There shall be included in, or
20 enclosed with, the notice a copy of the proposed plan or a
21 summary thereof. The provisions of this subsection may not be
22 relaxed by the certificate of limited partnership or partnership
23 agreement.

24 (f) Adoption of plan by limited partners.--The plan of
25 merger or consolidation shall be adopted upon receiving a
26 majority of the votes cast by all limited partners, if any,
27 entitled to vote thereon of each of the domestic limited
28 partnerships that is a party to the [plan] proposed merger or
29 consolidation and, if any class of limited partners is entitled
30 to vote thereon as a class, a majority of the votes cast in each

1 class vote. A proposed plan of merger or consolidation shall not
2 be deemed to have been adopted by the limited partnership unless
3 it has also been approved by the general partners, regardless of
4 the fact that the general partners have directed or suffered the
5 submission of the plan to the limited partners for action.

6 * * *

7 (h) Termination of plan.--Prior to the time when a merger or
8 consolidation becomes effective, the merger or consolidation may
9 be terminated pursuant to provisions therefor, if any, set forth
10 in the plan. If a certificate of merger or consolidation has
11 been filed in the department prior to the termination, a
12 certificate of termination executed by each limited partnership
13 that is a party to the [plan] merger or consolidation, unless
14 the plan permits termination by less than all of the limited
15 partnerships, in which case the certificate shall be executed on
16 behalf of the limited partnership exercising the right to
17 terminate, shall be filed in the department. The certificate of
18 termination shall set forth:

19 (1) A copy of the certificate of merger or consolidation
20 relating to the plan that is terminated.

21 (2) A statement that the plan has been terminated in
22 accordance with the provisions therefor set forth therein.

23 See sections 134 (relating to docketing statement), 135
24 (relating to requirements to be met by filed documents), 138
25 (relating to statement of correction) and 8514 (relating to
26 execution of certificates).

27 * * *

28 (j) Reference to outside facts.--Any of the terms of a plan
29 of merger or consolidation may be made dependent upon facts
30 ascertainable outside of the plan if the manner in which the

facts will operate upon the terms of the plan is set forth in the plan. Such facts may include, without limitation, actions or events within the control of or determinations made by a party to the plan or a representative of a party to the plan.

§ 8553. Voluntary withdrawal of limited partner.

(a) General rule.--A limited partner may withdraw from a limited partnership only at the time or upon the happening of events specified in writing in the partnership agreement. [If the partnership agreement does not specify in writing the time or the events upon the happening of which a limited partner may withdraw or a definite time for the dissolution and winding up of the limited partnership, a limited partner may withdraw upon not less than six months' prior written notice to each general partner at his address on the books of the limited partnership.]

(b) [Prohibition of withdrawal.--The partnership agreement may provide that a limited partner may not withdraw from the limited partnership or assign a partnership interest in the limited partnership prior to the dissolution and winding up of the limited partnership.] (Repealed).

(c) Transitional rule.--This section applies to all limited partnerships formed on or after January 1, 1999. If the partnership agreement of a limited partnership formed before January 1, 1999, did not on December 31, 1998, specify in writing the time or the events upon the happening of which a limited partner could withdraw or a definite time for the dissolution and winding up of the limited partnership, the provisions of this section that were in effect prior to January 1, 1999, shall apply until such time, if any, as the partnership agreement is amended in writing after January 1, 1999, to specify:

1 (1) a time or the events upon the happening of which a
2 limited partner may withdraw;

3 (2) a definite time for the dissolution and winding up
4 of the limited partnership; or

5 (3) that this section as effective January 1, 1999,
6 shall apply to the limited partnership.

7 § 8557. [Limitations on distribution.] Distributions and
8 allocation of profits and losses.

9 [A partner may not receive a distribution from a limited
10 partnership to the extent that, after giving effect to the
11 distribution, all liabilities of the limited partnership, other
12 than liabilities to partners on account of their partnership
13 interests and liabilities as to which recourse of creditors is
14 limited to specified property of the limited partnership, exceed
15 the fair value of the partnership assets. The fair value of any
16 property that is subject to a liability as to which recourse of
17 creditors is so limited shall be included in the partnership
18 assets only to the extent that the fair value of the property
19 exceeds that liability.] A limited partnership may from time to
20 time make distributions and allocate the profits and losses of
21 its business to the partners upon the basis stipulated in the
22 partnership agreement or, if not stipulated in the partnership
23 agreement, per capita. The allocation of losses pursuant to this
24 section shall not affect the limitation on liability of limited
25 partners as provided in section 8523 (relating to liability of
26 limited partners to third parties).

27 § 8558. Liability upon return of contribution.

28 * * *

29 (c) Determination of return of contribution.--A partner
30 receives a return of his contribution to the extent that a

1 distribution to him reduces his share of the fair value of the
2 net assets of the limited partnership[, as determined under
3 section 8557 (relating to limitations on distribution),] below
4 the value (as stated or determined in the manner provided in the
5 partnership agreement, if stated or provided for therein) of his
6 contribution (to the extent it has been received by the limited
7 partnership) that has not been distributed to him, and otherwise
8 to the extent of the fair value of the distribution.

9 (d) Fair value of net assets.--For purposes of computing the
10 fair value of the net assets of the limited partnership under
11 subsection (c):

12 (1) liabilities of the limited partnership to partners
13 on account of their partnership interests and liabilities as
14 to which recourse of creditors is limited to specified
15 property of the limited partnership shall not be considered;
16 and

17 (2) the fair value of property that is subject to a
18 liability as to which recourse of creditors is so limited
19 shall be included in the partnership assets only to the
20 extent that the fair value of the property exceeds that
21 liability.

22 § 8571. Nonjudicial dissolution.

23 (a) General rule.--A limited partnership is dissolved and
24 its affairs shall be wound up upon the happening of the first to
25 occur of the following:

26 (1) At the time or upon the happening of events
27 specified in the certificate of limited partnership.

28 (2) At the time or upon the happening of events
29 specified in writing in the partnership agreement.

30 (3) Written consent of all partners.

1 (4) An event of withdrawal of a general partner unless
2 at the time there is at least one other general partner and
3 the written provisions of the partnership agreement permit
4 the business of the limited partnership to be carried on by
5 the remaining general partner and that partner does so. The
6 limited partnership is not dissolved and is not required to
7 be wound up by reason of any event of withdrawal if, within
8 180 days after the withdrawal, [all] a majority in interest,
9 or such greater number as shall be provided in writing in the
10 partnership agreement, of the partners agree in writing to
11 continue the business of the limited partnership or to the
12 appointment of one or more replacement general partners.

13 (5) Entry of an order of judicial dissolution under
14 section 8572 (relating to judicial dissolution).

15 * * *

16 (c) Dissolution by domestication.--Whenever a domestic
17 limited partnership has domesticated itself under the laws of
18 another jurisdiction by action similar to that provided by
19 section 8590 (relating to domestication) and has authorized that
20 action in the manner required by this subchapter for the
21 approval of a proposal that the partnership dissolve
22 voluntarily, the partnership may surrender its certificate of
23 limited partnership under the laws of this Commonwealth by
24 filing in the department a certificate of cancellation under
25 section 8513 (relating to cancellation of certificate). If the
26 partnership, as domesticated in the other jurisdiction,
27 registers to do business in this Commonwealth either prior to or
28 simultaneously with the filing of the certificate of
29 cancellation under this subsection, the partnership shall not be
30 required to file with the certificate of cancellation the tax

1 clearance certificates that would otherwise be required by
2 section 139 (relating to tax clearance of certain fundamental
3 transactions).

4 [(c)] (d) Cross [references] reference.--See [sections 8103
5 (relating to continuation of certain limited partnerships) and]
6 section 8512(b) (relating to events requiring amendment).
7 § 8573. Winding up.

8 Except as otherwise provided in the partnership agreement,
9 the general partners who have not wrongfully dissolved a limited
10 partnership or, if none, the limited partners, or a person
11 approved by the limited partners or, if there is more than one
12 class or group of limited partners, by each class or group of
13 limited partners, in either case by a majority in interest of
14 the limited partners in each class or group, may wind up the
15 affairs of the limited partnership, but the court may wind up
16 the affairs of the limited partnership upon application of any
17 partner, his legal representative or assignee, and in connection
18 therewith, may appoint a liquidating trustee. See section 139(b)
19 (relating to tax clearance in judicial proceedings).

20 § 8577. Proposal and adoption of plan of division.

21 * * *

22 (b) Reference to outside facts.--Any of the terms of the
23 plan may be made dependent upon facts ascertainable outside of
24 the plan if the manner in which the facts will operate upon the
25 terms of the plan is set forth in the plan. Such facts may
26 include, without limitation, actions or events within the
27 control of or determinations made by the dividing limited
28 partnership or a representative of the dividing limited
29 partnership.

30 * * *

1 (e) [Restrictions on certain distributions.--A plan of
2 division may not be made effective if the effect of the plan is
3 to make a distribution to the holders of any class or series of
4 partnership interests of the dividing limited partnership unless
5 the distribution is permitted by section 8557 (relating to
6 limitations on distribution.] (Repealed).

7 (f) [Action by] Rights of holders of indebtedness.--[Unless
8 otherwise provided by an indenture or other contract by which
9 the dividing limited partnership is bound, a plan of division
10 shall not require the approval of the holders of any debt
11 securities or other obligations of the dividing limited
12 partnership or of any representative of the holders if the
13 transfer of assets effected by the division, if effected by
14 means of a sale, lease, exchange or other disposition, and any
15 related distribution would not require the approval of the
16 holders or representatives thereof.] If any such debt
17 securities, notes, similar evidences of indebtedness, indentures
18 or other contracts were issued, incurred or executed by the
19 dividing limited partnership before (the Legislative Reference
20 Bureau shall insert here the effective date of the amendments of
21 this section) and have not been amended subsequent to that date,
22 the liability of the dividing limited partnership thereunder
23 shall not be affected by the division nor shall the rights of
24 the obligees thereunder be impaired by the division, and each of
25 the resulting limited partnerships may be proceeded against or
26 substituted in place of the dividing limited partnership as
27 joint and several obligors on such liability, regardless of any
28 provision of the plan of division apportioning the liabilities
29 of the dividing limited partnership.

30 * * *

1 § 8580. Effect of division.

2 * * *

3 (b) Property rights; allocations of assets and
4 liabilities.--

5 (1) (i) All the property, real, personal and mixed, of
6 the dividing limited partnership, and all debts due on
7 whatever account to it, including subscriptions for
8 partnership interests or other causes of action belonging
9 to it, shall, except as otherwise provided in paragraph
10 (2), to the extent [transfers] allocations of assets are
11 contemplated by the plan of division, be deemed without
12 further action to be [transferred] allocated to and
13 vested in the resulting limited partnerships on such a
14 manner and basis and with such effect as is specified in
15 the plan, or per capita among the resulting limited
16 partnerships, as tenants in common, if no specification
17 is made in the plan, and the title to any real estate or
18 interest therein vested in any of the limited
19 partnerships shall not revert or be in any way impaired
20 by reason of the division.

21 (ii) Upon the division becoming effective, the
22 resulting limited partnerships shall each thenceforth be
23 responsible as separate and distinct limited partnerships
24 only for such liabilities as each limited partnership may
25 undertake or incur in its own name but shall be liable
26 for the liabilities of the dividing limited partnership
27 in the manner and on the basis provided in subparagraphs
28 (iv) and (v).

29 (iii) Liens upon the property of the dividing
30 limited partnership shall not be impaired by the

1 division.

2 (iv) [One] To the extent allocations of liabilities
3 are contemplated by the plan of division, the liabilities
4 of the dividing limited partnership shall be deemed
5 without further action to be allocated to and become the
6 liabilities of the resulting limited partnerships on such
7 a manner and basis and with such effect as is specified
8 in the plan; and one or more but less than all of the
9 resulting limited partnerships shall be free of the
10 liabilities of the dividing limited partnership to the
11 extent, if any, specified in the plan [if no fraud of
12 creditors or partners or violation of law shall be
13 effected thereby and if all applicable provisions of law
14 are complied with.], if in either case:

15 (A) no fraud of partners 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 limited partnerships
22 from the liabilities of the dividing limited partnership,
23 or for allocating some or all of the liabilities of the
24 dividing limited partnership, are not satisfied, the
25 liabilities of the dividing limited partnership as to
26 which those conditions are not satisfied shall not be
27 affected by the division nor shall the rights of
28 creditors [thereof] thereunder or of any person dealing
29 with the limited partnership be impaired by the division,
30 and any claim existing or action or proceeding pending by

1 or against the limited partnership with respect to those
2 liabilities may be prosecuted to judgment as if the
3 division had not taken place, or the resulting limited
4 partnerships may be proceeded against or substituted in
5 [its] place of the dividing limited partnership as joint
6 and several obligors on [such liability] those
7 liabilities, regardless of any provision of the plan of
8 division apportioning the liabilities of the dividing
9 limited partnership.

10 (vi) The conditions in subparagraph (iv) for freeing
11 one or more of the resulting limited partnerships from
12 the liabilities of the dividing limited partnership and
13 for allocating some or all of the liabilities of the
14 dividing limited partnership shall be conclusively deemed
15 to have been satisfied if the plan of division has been
16 approved by the Pennsylvania Public Utility Commission in
17 a final order issued after (the Legislative Reference
18 Bureau shall insert here the effective date of the
19 amendments of this section) that has become not subject
20 to further appeal.

21 (2) (i) The [transfer] allocation of any fee or
22 freehold interest or leasehold having a remaining term of
23 30 years or more in any tract or parcel of real property
24 situate in this Commonwealth owned by a dividing limited
25 partnership (including property owned by a foreign
26 limited partnership dividing solely under the law of
27 another jurisdiction) to a new limited partnership
28 resulting from the division shall not be effective until
29 one of the following documents is filed in the office for
30 the recording of deeds of the county, or each of them, in

1 which the tract or parcel is situated:

2 (A) A deed, lease or other instrument of
3 confirmation describing the tract or parcel.

4 (B) A duly executed duplicate original copy of
5 the certificate of division.

6 (C) A copy of the certificate of division
7 certified by the Department of State.

8 (D) A declaration of acquisition setting forth
9 the value of real estate holdings in the county of
10 the limited partnership as an acquired company.

11 (ii) The provisions of 75 Pa.C.S. § 1114 (relating
12 to transfer of vehicle by operation of law) shall not be
13 applicable to [a transfer] an allocation of ownership of
14 any motor vehicle, trailer or semitrailer [from a
15 dividing limited partnership] to a new limited
16 partnership under this section or under a similar law of
17 any other jurisdiction, but any such [transfer]
18 allocation shall be effective only upon compliance with
19 the requirements of 75 Pa.C.S. § 1116 (relating to
20 issuance of new certificate following transfer).

21 (3) It shall not be necessary for a plan of division to
22 list each individual asset or liability of the dividing
23 limited partnership to be allocated to a new limited
24 partnership so long as those assets and liabilities are
25 described in a reasonable and customary manner.

26 (4) Each new limited partnership shall hold any assets
27 and liabilities allocated to it as the successor to the
28 dividing limited partnership, and those assets and
29 liabilities shall not be deemed to have been assigned to the
30 new limited partnership in any manner, whether directly or

1 indirectly or by operation of law.

2 * * *

3 (g) Conflict of laws.--It is the intent of the General
4 Assembly that:

5 (1) The effect of a division of a domestic limited
6 partnership shall be governed solely by the laws of this
7 Commonwealth and any other jurisdiction under the laws of
8 which any of the resulting limited partnerships is organized.

9 (2) The effect of a division on the assets and
10 liabilities of the dividing limited partnership shall be
11 governed solely by the laws of this Commonwealth and any
12 other jurisdiction under the laws of which any of the
13 resulting limited partnerships is organized.

14 (3) The validity of any allocations of assets or
15 liabilities by a plan of division of a domestic limited
16 partnership, regardless of whether or not any of the new
17 limited partnerships is a foreign limited partnership, shall
18 be governed solely by the laws of this Commonwealth.

19 (4) In addition to the express provisions of this
20 subsection, this subchapter shall otherwise generally be
21 granted the protection of full faith and credit under the
22 Constitution of the United States.

23 § 8590. Domestication.

24 * * *

25 (b) Certificate of domestication.--The certificate of
26 domestication shall be executed by the limited partnership and
27 shall set forth in the English language:

28 (1) The name of the limited partnership. If the name is
29 in a foreign language, it shall be set forth in Roman letters
30 or characters or Arabic or Roman numerals. If the name is one

1 that is rendered unavailable for use by any provision of
2 section 8505 (relating to name), the limited partnership
3 shall adopt, in accordance with any procedures for changing
4 the name of the limited partnership that are applicable prior
5 to the domestication of the limited partnership, and shall
6 set forth in the certificate of domestication an available
7 name.

8 * * *

9 (c) Effect of domestication.--

10 (1) As a domestic limited partnership, the domesticated
11 limited partnership shall no longer be a foreign limited
12 partnership for the purposes of this chapter and shall [have]
13 instead be a domestic limited partnership with all the powers
14 and privileges and [be subject to] all the duties and
15 limitations granted and imposed upon domestic limited
16 partnerships. [The property, debts, liens, estates, taxes,
17 penalties and public accounts due the Commonwealth shall
18 continue to be vested in and imposed upon the limited
19 partnership to the same extent as if it were the successor by
20 merger of the domesticating limited partnership with and into
21 a domestic limited partnership under Subchapter F (relating
22 to merger and consolidation).] In all other respects, the
23 domesticated limited partnership shall be deemed to be the
24 same limited partnership as it was prior to the domestication
25 without any change in or affect on its existence. Without
26 limiting the generality of the previous sentence, the
27 domestication shall not be deemed to have dissolved the
28 limited partnership or to have affected in any way:

29 (i) the right and title of the limited partnership
30 in and to its assets, property, franchises, estates and

chooses in action;

(ii) the liability of the limited partnership for its debts, obligations, penalties and public accounts due the Commonwealth;

(iii) any liens or other encumbrances on the property or assets of the limited partnership; or

(iv) any contract, license or other agreement to which the limited partnership is a party or under which it has any rights or obligations.

(2) The partnership interests in the domesticated limited partnership shall be unaffected by the domestication except to the extent, if any, reclassified in the certificate of domestication.

§ 8903. Definitions and index of definitions.

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

* * *

["Department." The Department of State of the Commonwealth.]

* * *

"Event of dissociation." An event that causes a person to cease to be a member of a limited liability company. See section [8971(a)(4)] 8971(4) (relating to dissolution).

* * *

["Licensed person." A natural person who is duly licensed or admitted to practice his profession by a court, department, board, commission or other agency of this Commonwealth or another jurisdiction to render a professional service that is or will be rendered by the professional company of which he is or intends to become a manager, member, employee or agent.]

1 "Limited liability company," "domestic limited liability
2 company" or "company." An association that is a limited
3 liability company organized and existing under this chapter.

4 * * *

5 "Operating agreement." Any [agreement of the members as to]
6 rules or procedures adopted for the regulation and governance of
7 the affairs of a limited liability company and the conduct of
8 its business. [The operating agreement need not be in writing
9 except where this chapter refers to a written provision of the
10 operating agreement. The operating agreement may contain any
11 provision for the regulation of the internal affairs of the
12 company agreed to by the members, whether or not specifically
13 authorized by or in contravention of this chapter, except where
14 this chapter:

15 (1) refers only to a rule as set forth in the
16 certificate of organization; or

17 (2) expressly provides that the operating agreement
18 shall not relax or contravene any provision on a specified
19 subject. See sections 8913(8) (relating to certificate of
20 organization) and 8915 (relating to modification by
21 agreement).]

22 * * *

23 ["Professional services." The term shall have the meaning
24 specified in section 2902 (relating to definitions).]

25 * * *

26 (b) Index of other definitions.--Other definitions applying
27 to this chapter and the sections in which they appear are:

28 "Act" or "action." Section 102.

29 "Department." Section 102.

30 "Licensed person." Section 102.

1 (a) General rule.--The operating agreement of a limited
2 liability company need not be in writing except where this
3 chapter refers to a written provision of the operating
4 agreement. If a written operating agreement provides that it
5 cannot be amended or modified except in writing, an oral
6 agreement, amendment or modification shall not be enforceable.

7 (b) Freedom of contract.--An operating agreement may contain
8 any provision for the regulation of the internal affairs of a
9 limited liability company adopted by the members, whether or not
10 specifically authorized by or in contravention of this chapter,
11 except where this chapter:

12 (1) refers only to a rule as set forth in the
13 certificate of organization; or

14 (2) expressly provides that the operating agreement
15 shall not relax or contravene any provision on a specified
16 subject.

17 (c) Cross references.--See sections 8913(8) (relating to
18 certificate of organization) and 8915 (relating to modification
19 by agreement).

20 § 8922. Liability of members [and managers].

21 (a) General rule.--[Neither] Except as provided in
22 subsection (e), the members of a limited liability company [nor
23 the managers of a company managed by one or more managers are]
24 shall not be liable, solely by reason of being a member [or a
25 manager], under an order of a court or in any other manner for a
26 debt, obligation or liability of the company of any kind or for
27 the acts [or omissions] of any [other] member, manager, agent or
28 employee of the company.

29 (b) Professional relationship unaffected.--Subsection (a)
30 shall not afford members [and managers] of a professional

1 company with greater immunity than is available to the officers,
2 shareholders, employees or agents of a professional corporation.
3 See section 2925 (relating to professional relationship
4 retained).

5 * * *

6 (d) Conflict of laws.--The personal liability of a member of
7 a company to any person or in any action or proceeding for the
8 debts, obligations or liabilities of the company or for the acts
9 [or omissions] of other members, managers, employees or agents
10 of the company shall be governed solely and exclusively by this
11 chapter and the laws of this Commonwealth. Whenever a conflict
12 arises between the laws of this Commonwealth and the laws of any
13 other state with regard to the liability of members of a company
14 organized and existing under this chapter for the debts,
15 obligations and liabilities of the company or for the acts [or
16 omissions] of the other members, managers, employees or agents
17 of the company, the laws of this Commonwealth shall govern in
18 determining such liability.

19 (e) Expansion of liability.--The certificate of organization
20 may provide that some or all of the members shall be liable for
21 some or all of the debts, obligations and liabilities of the
22 company to the extent and under the circumstances provided in
23 the certificate.

24 (f) Medical professional liability.--A professional company
25 shall be deemed to be a partnership for purposes of section 811
26 of the act of October 15, 1975 (P.L.390, No.111), known as the
27 Health Care Services Malpractice Act.

28 [(e)] (g) Cross reference.--See section 8904(b) (relating to
29 rules for cases not provided for in this chapter).

30 § 8924. Limited transferability of membership interest.

1 (a) General rule.--The interest of a member in a limited
2 liability company constitutes the personal estate of the member
3 and may be transferred or assigned as provided in writing in the
4 operating agreement. Unless otherwise provided in writing in
5 the operating agreement, if all of the other members of the
6 company other than the member proposing to dispose of his
7 interest do not approve of the proposed transfer or assignment
8 by unanimous vote or written consent, which approval may be
9 unreasonably withheld by any of the other members, the
10 transferee of the interest of the member shall have no right to
11 participate in the management of the business and affairs of the
12 company or to become a member. The transferee shall only be
13 entitled to receive the distributions and the return of
14 contributions to which that member would otherwise be entitled.

15 (b) Certificate of membership interest.--The certificate of
16 organization may provide that a member's interest in a company
17 may be evidenced by a certificate of membership interest issued
18 by the company [and]. If such provision is made for the issuance
19 of certificates of membership interest, the operating agreement
20 may [also] provide for the assignment or transfer of any
21 membership interest represented by such a certificate and make
22 other provisions with respect to such certificates. [See 13
23 Pa.C.S. § 8102 (relating to definitions and index of
24 definitions).]

25 § 8932. Distributions and allocation of profits and losses.

26 A limited liability company may from time to time [divide]
27 make distributions and allocate the profits and losses of its
28 business [and distribute the same] to [and allocate any losses
29 among] the members of the company upon the basis stipulated in
30 the operating agreement or, if not stipulated in the operating

1 agreement, per capita. The allocation of losses pursuant to this
2 section shall not affect the limitation on liability of members
3 as provided in section 8922 (relating to liability of members).

4 § 8942. Voting.

5 * * *

6 (c) Exception.--An amendment of the certificate of
7 organization that:

8 (1) restates without change all of the operative
9 provisions of the certificate of organization as theretofore
10 in effect;

11 (2) changes the name or registered office of the
12 company; or

13 (3) accomplishes any combination of the foregoing
14 purposes;

15 is not an amendment of the certificate of organization for the
16 purposes of subsection (b). Unless otherwise provided in writing
17 in the operating agreement, an amendment described in this
18 subsection may be made by the affirmative vote of a majority of
19 the managers or, in the case of a company that is not managed by
20 one or more managers, of a majority of the members.

21 * * *

22 § 8943. Duties of managers and members.

23 * * *

24 (b) Companies with managers.--If the certificate of
25 organization provides that the company shall be managed by one
26 or more managers:

27 (1) [Unless otherwise provided in writing in the
28 operating agreement, the provisions of Subchapter B of
29 Chapter 17 (relating to officers, directors and
30 shareholders)] Sections 1711 (relating to alternative

1 provisions) through 1717 (relating to limitation on standing)
2 shall be applicable to representatives of the company. A
3 written provision of the operating agreement may increase,
4 but not relax, the duties of representatives of the company
5 to its members under those sections. For purposes of applying
6 the provisions of those sections, references to the "articles
7 of incorporation," "bylaws," "directors" and "shareholders"
8 shall mean the certificate of organization, operating
9 agreement, managers and members, respectively.

10 (2) A member who is not a manager shall have no duties
11 to the company or to the other members solely by reason of
12 acting in his capacity as a member.

13 § 8944. [Classes of members.] Members.

14 (a) General rule.--A limited liability company may have one
15 or more members.

16 (b) Classes of members.--An operating agreement may provide
17 for:

18 (1) classes or groups of members having such relative
19 rights, powers and duties as the operating agreement may
20 provide;

21 (2) the future creation in the manner provided in the
22 operating agreement of additional classes or groups of
23 members having such relative rights, powers and duties as may
24 from time to time be established, including rights, powers
25 and duties senior to existing classes and groups of members;
26 and

27 (3) the taking of an action, including, without
28 limitation, amendment of the certificate of organization or
29 operating agreement or creation of a class or group of
30 interests in the limited liability company that was not

1 previously outstanding, without the vote or approval of any
2 member or class or group of members.

3 [(b)] (c) Class voting.--The operating agreement may grant
4 to all or certain identified members or a specified class or
5 group of members the right to vote (on a per capita or other
6 basis), separately or with all or any class or group of members,
7 upon any matter.

8 § 8945. Indemnification.

9 * * *

10 (f) Mandatory indemnification.--Without regard to whether
11 indemnification or advancement of expenses is provided under
12 subsections (a) and (d), a limited liability company shall be
13 subject to section 8331(2) (relating to rules determining rights
14 and duties of partners) and both the members and the managers,
15 if any, shall be deemed to be general partners for purposes of
16 applying that section.

17 § 8948. [Dissociation of member limited.] Limitation on
18 dissociation or assignment of membership interest.

19 Notwithstanding anything to the contrary set forth in this
20 part, an operating agreement may provide that a member may not
21 voluntarily dissociate from the limited liability company or
22 assign his membership interest prior to the dissolution and
23 winding-up of the company, and an attempt by a member to
24 dissociate voluntarily from the company or to assign his
25 membership interest in violation of the operating agreement
26 shall be ineffective.

27 § 8957. Approval of merger or consolidation.

28 * * *

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 a party to the plan or a
5 representative of a party to the plan.

6 (c) [Postadoption] Post-adoption amendment of plan of merger
7 or consolidation.--A plan of merger or consolidation may contain
8 a provision that the managers, if any, of the constituent
9 companies may amend the plan at any time prior to its effective
10 date, except that an amendment made subsequent to any adoption
11 of the plan by the members of any constituent domestic company
12 shall not, without the approval of the members, change:

13 (1) The amount or kind of membership interests,
14 obligations, cash, property or rights to be received in
15 exchange for or on conversion of all or any of the membership
16 interests of the constituent domestic company adversely to
17 the holders of those membership interests.

18 (2) Any [term] provision of the certificate of
19 organization or operating agreement of the surviving or new
20 company [to be effected by] as it is to be in effect
21 immediately following consummation of the merger or
22 consolidation except provisions that may be amended without
23 the approval of the members.

24 (3) Any of the other terms and conditions of the plan if
25 the change would adversely affect the holders of any
26 membership interests of the constituent domestic company.

27 * * *

28 (e) Party to plan.--An association that approves a plan in
29 its capacity as a member or creditor of a merging or
30 consolidating company or that furnishes all or a part of the

1 consideration contemplated by a plan does not thereby become a
2 party to the [plan or the] merger or consolidation for the
3 purposes of this subchapter.

4 * * *

5 (i) Termination of plan.--Prior to the time when a merger or
6 consolidation becomes effective, the merger or consolidation may
7 be terminated pursuant to provisions therefor, if any, set forth
8 in the plan. If a certificate of merger or consolidation has
9 been filed in the department prior to the termination, a
10 certificate of termination executed by each company that is a
11 party to the merger or consolidation, unless the plan permits
12 termination by less than all of the companies, in which case the
13 certificate shall be executed on behalf of the company
14 exercising the right to terminate, shall be filed in the
15 department. The certificate of termination shall set forth:

16 (1) A copy of the certificate of merger or consolidation
17 relating to the plan that is terminated.

18 (2) A statement that the plan has been terminated in
19 accordance with the provisions therefor set forth therein.

20 See sections 134 (relating to docketing statement), 135
21 (relating to requirements to be met by filed documents), 138
22 (relating to statement of correction) and 8907 (relating to
23 execution of documents).

24 * * *

25 § 8962. Proposal and adoption of plan of division.

26 * * *

27 (b) Reference to outside facts.--Any of the terms of the
28 plan may be made dependent upon facts ascertainable outside of
29 the plan if the manner in which the facts will operate upon the
30 terms of the plan is set forth in the plan. Such facts may

1 include, without limitation, actions or events within the
2 control of or determinations made by the dividing limited
3 liability company or a representative of the dividing limited
4 liability company.

5 * * *

6 (e) [Action by holders of indebtedness.--Unless otherwise
7 provided by an indenture or other contract by which the dividing
8 limited liability company is bound, a plan of division shall not
9 require the approval of the holders of any debt securities or
10 other obligations of the dividing company or of any
11 representative of the holders if the transfer of assets effected
12 by the division, if effected by means of a sale, lease, exchange
13 or other disposition, and any related distribution would not
14 require the approval of the holders or representatives thereof.]

15 (Repealed).

16 § 8965. Effect of division.

17 * * *

18 (b) Property rights; allocations of assets and
19 liabilities.--

20 (1) (i) All the property, real, personal and mixed, of
21 the dividing company and all debts due on whatever
22 account to it, including subscriptions for membership
23 interests and other causes of action belonging to it,
24 shall, except as otherwise provided in paragraph (2), to
25 the extent [transfers] allocations of assets are
26 contemplated by the plan of division, be deemed without
27 further action to be [transferred] allocated to and
28 vested in the resulting companies on such a manner and
29 basis and with such effect as is specified in the plan,
30 or per capita among the resulting companies as tenants in

1 common if no specification is made in the plan, and the
2 title to any real estate or interest therein vested in
3 any of the companies shall not revert or be in any way
4 impaired by reason of the division.

5 (ii) Upon the division becoming effective, the
6 resulting companies shall each thenceforth be responsible
7 as separate and distinct companies only for such
8 liabilities as each company may undertake or incur in its
9 own name but shall be liable for the liabilities of the
10 dividing company in the manner and on the basis provided
11 in subparagraphs (iv) and (v).

12 (iii) Liens upon the property of the dividing
13 company shall not be impaired by the division.

14 (iv) [One] To the extent allocations of liabilities
15 are contemplated by the plan of division, the liabilities
16 of the dividing company shall be deemed without further
17 action to be allocated to and become the liabilities of
18 the resulting companies on such a manner and basis and
19 with such effect as is specified in the plan; and one or
20 more, but less than all, of the resulting companies shall
21 be free of the liabilities of the dividing company to the
22 extent, if any, specified in the plan [if no fraud of
23 creditors or members or violation of law shall be
24 effected thereby and if all applicable provisions of law
25 are complied with.], if in either case:

26 (A) no fraud on members or violation of law
27 shall be effected thereby; and

28 (B) the plan does not constitute a fraudulent
29 transfer under 12 Pa.C.S. Ch. 51 (relating to
30 fraudulent transfers).

1 (v) If the conditions in subparagraph (iv) for
2 freeing one or more of the resulting companies from the
3 liabilities of the dividing company, or for allocating
4 some or all of the liabilities of the dividing company,
5 are not satisfied, the liabilities of the dividing
6 company as to which those conditions are not satisfied
7 shall not be affected by the division nor shall the
8 rights of creditors [thereof] thereunder or of any person
9 dealing with the company be impaired by the division, and
10 any claim existing or action or proceeding pending by or
11 against the company with respect to those liabilities may
12 be prosecuted to judgment as if the division had not
13 taken place, or the resulting companies may be proceeded
14 against or substituted in [its] place of the dividing
15 company as joint and several obligors on [such liability]
16 those liabilities, regardless of any provision of the
17 plan of division apportioning the liabilities of the
18 dividing company.

19 (vi) The conditions in subparagraph (iv) for freeing
20 one or more of the resulting companies from the
21 liabilities of the dividing company and for allocating
22 some or all of the liabilities of the dividing company
23 shall be conclusively deemed to have been satisfied if
24 the plan of division has been approved by the
25 Pennsylvania Public Utility Commission in a final order
26 issued after (the Legislative Reference Bureau shall
27 insert here the effective date of the amendments of this
28 section) that has become not subject to further appeal.

29 (2) (i) The [transfer] allocation of any fee or
30 freehold interest or leasehold having a remaining term of

1 30 years or more in any tract or parcel of real property
2 situate in this Commonwealth owned by a dividing company
3 (including property owned by a foreign limited liability
4 company dividing solely under the law of another
5 jurisdiction) to a new company resulting from the
6 division shall not be effective until one of the
7 following documents is filed in the office for the
8 recording of deeds of the county, or each of them, in
9 which the tract or parcel is situated:

10 (A) A deed, lease or other instrument of
11 confirmation describing the tract or parcel.

12 (B) A duly executed duplicate original copy of
13 the certificate of division.

14 (C) A copy of the certificate of division
15 certified by the Department of State.

16 (D) A declaration of acquisition setting forth
17 the value of real estate holdings in such county of
18 the company as an acquired company.

19 (ii) The provisions of 75 Pa.C.S. § 1114 (relating
20 to transfer of vehicle by operation of law) shall not be
21 applicable to [a transfer] an allocation of ownership of
22 any motor vehicle, trailer or semitrailer [from a
23 dividing company] to a new company under this section or
24 under a similar law of any other jurisdiction but any
25 such [transfer] allocation shall be effective only upon
26 compliance with the requirements of 75 Pa.C.S. § 1116
27 (relating to issuance of new certificate following
28 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 company to be allocated to a new company so long as those
2 assets and liabilities are described in a reasonable and
3 customary manner.

4 (4) Each new company shall hold any assets and
5 liabilities allocated to it as the successor to the dividing
6 company, and those assets and liabilities shall not be deemed
7 to have been assigned to the new company in any manner,
8 whether directly or indirectly or by operation of law.

9 * * *

10 (h) Conflict of laws.--It is the intent of the General
11 Assembly that:

12 (1) The effect of a division of a domestic limited
13 liability company shall be governed by the laws of this
14 Commonwealth and any other jurisdiction under the laws of
15 which any of the resulting companies is organized.

16 (2) The effect of a division on the assets and
17 liabilities of the dividing company shall be governed solely
18 by the laws of this Commonwealth and any other jurisdiction
19 under the laws of which any of the resulting companies is
20 organized.

21 (3) The validity of any allocation of assets or
22 liabilities by a plan of division of a domestic limited
23 liability company, regardless of whether or not any of the
24 new companies is a foreign limited liability company, shall
25 be governed solely by the laws of this Commonwealth.

26 (4) In addition to the express provisions of this
27 subsection, this subchapter shall otherwise generally be
28 granted the protection of full faith and credit under the
29 Constitution of the United States.

30 § 8971. Dissolution.

1 [(a) General rule.--]A limited liability company is
2 dissolved and its affairs shall be wound up upon the happening
3 of the first to occur of the following events:

4 (1) At the time or upon the happening of events
5 specified in the certificate of organization.

6 (2) At the time or upon the happening of events
7 specified in writing in the operating agreement.

8 (3) By the unanimous written agreement or consent of all
9 members.

10 (4) [Upon] Except as otherwise provided in writing in
11 the operating agreement, upon a member becoming a bankrupt or
12 executing an assignment for the benefit of creditors or the
13 death, retirement, insanity, resignation, expulsion or
14 dissolution of a member or the occurrence of any other event
15 that terminates the continued membership of a member in the
16 company unless the business of the company is continued by
17 the vote or consent of [all] a majority in interest, or such
18 greater number as shall be provided in writing in the
19 operating agreement, of the remaining members given within
20 [90] 180 days following such event [or under a right to do so
21 stated in the operating agreement].

22 (5) Entry of an order of judicial dissolution under
23 section 8972 (relating to judicial dissolution).

24 [(b) Cross reference.--See section 8103 (relating to
25 continuation of certain limited partnerships and limited
26 liability companies).]

27 § 8973. Winding up.

28 * * *

29 (b) Judicial supervision.--The court may wind up the affairs
30 of the company upon application of any member, his legal

representative or assignee and, in connection therewith, may appoint a liquidating trustee. See section 139(b) (relating to tax clearance in judicial proceedings).

§ 8974. Distribution of assets upon dissolution.

(a) General rule.--In settling accounts after dissolution, the liabilities of the limited liability company shall be entitled to payment in the following order:

(1) Those to creditors, including members or managers who are creditors, in the order of priority as provided by law, in satisfaction of the liabilities of the company, whether by payment or the making of reasonable provision for payment thereof, other than liabilities for distributions to members under section 8932 (relating to distributions and allocation of profits and losses) or 8933 (relating to distributions upon an event of dissociation).

(2) Unless otherwise provided in the operating agreement, to members and former members in satisfaction of liabilities for distributions under section 8932 or 8933.

(3) Unless otherwise provided in the operating agreement, to members in respect of:

(i) Their contributions to capital.

(ii) Their share of the profits and other compensation by way of income on their contributions.

* * *

§ 8978. Dissolution by domestication.

Whenever a domestic limited liability company has domesticated itself under the laws of another jurisdiction by action similar to that provided by section 8982 (relating to domestication) and has authorized that action by the vote required by this subchapter for the approval of a proposal that

1 the company dissolve voluntarily, the company may surrender its
2 certificate of organization under the laws of this Commonwealth
3 by filing in the Department of State a certificate of
4 dissolution under section 8975 (relating to certificate of
5 dissolution). In lieu of the statements required by section
6 8975(a)(2) through (4), the certificate of dissolution shall set
7 forth a statement that the company has domesticated itself under
8 the laws of another jurisdiction. If the company, as
9 domesticated in the other jurisdiction, registers to do business
10 in this Commonwealth either prior to or simultaneously with the
11 filing of the certificate of dissolution under this section, the
12 company shall not be required to file with the certificate of
13 dissolution the tax clearance certificates that would otherwise
14 be required by section 139 (relating to tax clearance of certain
15 fundamental transactions).

16 § 8982. Domestication.

17 * * *

18 (b) Certificate of domestication.--The certificate of
19 domestication shall be executed by the company and shall set
20 forth in the English language:

21 (1) The name of the company. If the name is in a foreign
22 language, it shall be set forth in Roman letters or
23 characters or Arabic or Roman numerals. If the name is one
24 that is rendered unavailable for use by any provision of
25 section 8905 (relating to name), the company shall adopt, in
26 accordance with any procedures for changing the name of the
27 company that are applicable prior to the domestication of the
28 company, and shall set forth in the certificate of
29 domestication, an available name.

30 * * *

1 (c) Effect of domestication.--

2 (1) As a domestic limited liability company, the
3 domesticated company shall no longer be a foreign limited
4 liability company for the purposes of this chapter and shall
5 [have] instead be a domestic limited liability company with
6 all the powers and privileges and [be subject to] all the
7 duties and limitations granted and imposed upon domestic
8 limited liability companies. [The property, debts, liens,
9 estates, taxes, penalties and public accounts due the
10 Commonwealth shall continue to be vested in and imposed upon
11 the company to the same extent as if it were the successor by
12 merger of the domesticating company with and into a domestic
13 limited liability company under Subchapter G (relating to
14 mergers and consolidations).] In all other respects, the
15 domesticated limited liability company shall be deemed to be
16 the same limited liability company as it was prior to the
17 domestication without any change in or affect on its
18 existence. Without limiting the generality of the previous
19 sentence, the domestication shall not be deemed to have
20 dissolved the company or to have affected in any way:

21 (i) the right and title of the company in and to its
22 assets, property, franchises, estates and choses in
23 action;

24 (ii) the liability of the company for its debts,
25 obligations, penalties and public accounts due the
26 Commonwealth;

27 (iii) any liens or other encumbrances on the
28 property or assets of the company; or

29 (iv) any contract, license or other agreement to
30 which the company is a party or under which it has any

1 rights or obligations.

2 (2) The [shares of] membership interests in the
3 domesticated company shall be unaffected by the domestication
4 except to the extent, if any, reclassified in the certificate
5 of domestication.

6 § 8996. Restrictions.

7 * * *

8 (b) Ownership and governance of restricted professional
9 companies.--Except as otherwise provided by a statute, rule or
10 regulation applicable to a particular profession, all of the
11 [members] ultimate beneficial owners of membership interests in
12 and all of the managers, if any, of a restricted professional
13 company shall be licensed persons.

14 * * *

15 (d) Application.--For purposes of applying subsection (a):

16 * * *

17 (3) The practice of the restricted professional service
18 of law shall be deemed to include:

19 (i) serving as an attorney-in-fact, guardian,
20 custodian, executor, personal representative, trustee or
21 fiduciary;

22 (ii) serving as a director or trustee of a
23 corporation for profit or not-for-profit, manager of a
24 limited liability company or a similar position with any
25 other form of association;

26 (iii) testifying, teaching, lecturing or writing
27 about any topic related to the law;

28 (iv) serving as a master, receiver, arbitrator or
29 similar official;

30 (v) providing actuarial, insurance, investment,

1 estate and trust administration, tax return preparation,
2 financial and other similar services and advice;

3 (vi) conducting intellectual property and other real
4 and personal property title searches and providing other
5 title insurance agency services; and

6 (vii) engaging in any activity incidental to any of
7 the foregoing.

8 § 8998. Annual registration.

9 * * *

10 (f) Annual fee to be lien.--

11 (1) Failure to [pay the annual registration fee imposed]
12 file the certificate of annual registration required by this
13 section shall not affect the existence or status of the
14 restricted professional company as such, but the annual
15 registration fee that would have been payable shall be a lien
16 in the manner provided in this subsection from the time the
17 annual registration fee is due and payable [upon]. If a
18 certificate of annual registration is not filed within 30
19 days after the date on which it is due, the department shall
20 assess a penalty of \$500 against the company, which shall
21 also be a lien in the manner provided in this subsection. The
22 imposition of that penalty shall not be construed to relieve
23 the company from liability for any other penalty or interest
24 provided for under other applicable law.

25 (2) If the annual registration fee paid by a restricted
26 professional company is subsequently determined to be less
27 than should have been paid because it was based on an
28 incorrect number of members or was otherwise incorrectly
29 computed, that fact shall not affect the existence or status
30 of the restricted professional company as such, but the

1 amount of the additional annual registration fee that should
2 have been paid shall be a lien in the manner provided in this
3 subsection from the time the incorrect payment is discovered
4 by the department.

5 (3) The annual registration fee shall bear simple
6 interest from the date that it becomes due and payable until
7 paid. The interest rate shall be that provided for in section
8 806 of the act of April 9, 1929 (P.L.343, No.176), known as
9 The Fiscal Code, with respect to unpaid taxes. The penalty
10 provided for in paragraph (1) shall not bear interest. The
11 payment of interest shall not relieve the restricted
12 professional company from liability for any other penalty or
13 interest provided for under other applicable law.

14 (4) The lien created by this subsection shall attach to
15 all of the property and proceeds thereof of the restricted
16 professional company in which a security interest can be
17 perfected, in whole or in part, by filing in the department
18 under 13 Pa.C.S. Div. 9 (relating to secured transactions;
19 sales of accounts, contract rights and chattel paper),
20 whether the property and proceeds are owned by the company at
21 the time the annual registration fee or any penalty or
22 interest becomes due and payable or whether the property and
23 proceeds are acquired thereafter. Except as otherwise
24 provided by statute, the lien created by this subsection
25 shall have priority over all other liens, security interests
26 or other charges, except liens for taxes or other charges due
27 the Commonwealth. The lien created by this subsection shall
28 be entered on the records of the department and indexed in
29 the same manner as a financing statement filed under 13
30 Pa.C.S. Div. 9. At the time an annual registration fee,

1 penalty or interest that has resulted in the creation of
2 [the] a lien under this subsection is paid, the department
3 shall terminate the lien with respect to that annual
4 registration fee, penalty or interest without requiring a
5 separate filing by the company for that purpose.

6 (5) If the annual registration fee paid by a restricted
7 professional company is subsequently determined to be more
8 than should have been paid for any reason, no refund of the
9 additional fee shall be made.

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 the trustee [or a
14 majority of the trustees]:

15 (1) To receive title to, hold, buy, sell, exchange,
16 transfer and convey real and personal property for the use of
17 the business trust.

18 (2) To take, receive, invest or disburse the receipts,
19 earnings, rents, profits or returns from the trust estate.

20 (3) To carry on and conduct any lawful business
21 designated in the deed or other instrument of trust, and
22 generally to do any lawful act in relation to such trust
23 property that any individual owning the same absolutely might
24 do.

25 (4) To merge with another business trust or other
26 association, to divide or to engage in any other fundamental
27 or other transaction contemplated by the deed or other
28 instrument of trust.

29 (b) Term.--Except as otherwise provided in the instrument, a
30 business trust shall have perpetual existence.

1 (c) Separate entity.--A business trust is a separate legal
2 entity. Except as otherwise provided in the instrument, title to
3 real and personal property may be held in the name of the trust,
4 without in any manner diminishing the rights, powers and duties
5 of the trustees as provided in subsection (a).

6 (d) Termination.--Except as otherwise provided in the
7 instrument:

8 (1) The business trust may not be terminated, dissolved
9 or revoked by a beneficial owner or other person.

10 (2) The death, incapacity, dissolution, termination or
11 bankruptcy of a beneficial owner or a trustee shall not
12 result in the termination, dissolution or revocation of the
13 business trust.

14 (e) Contents of instrument.--The instrument may contain any
15 provision for the regulation of the internal affairs of the
16 business trust included in the instrument by the settlor, the
17 trustee or the beneficiaries in accordance with the applicable
18 procedures for the adoption or amendment of the instrument.

19 § 9503. Documentation of trust.

20 (a) General rule.--A business trust shall not be valid
21 unless created by deed of trust or other written instrument
22 subscribed by one or more individuals, associations or other
23 entities. The trustees of a business trust shall promptly cause
24 the instrument or any amendment thereof, except an amendment
25 solely effecting or reflecting the substitution of or other
26 change in the trustees, to be filed in the Department of State.
27 [The failure to effect the filing shall not affect the validity
28 of a business trust. A trustee who violates the requirements of
29 this subsection shall be liable for a civil penalty in the
30 amount of \$1,000 payable to the department.]

1 * * *

2 § 9505. [Succession of trustees.] Trustees.

3 (a) Succession of trustees.--An instrument may provide for
4 the succession of title to [the] any trust property not titled
5 in the name of the trust to a successor trustee, in case of the
6 death, resignation, removal or incapacity of any trustee. In the
7 case of any such succession, the title to [the] such trust
8 property shall at once vest in the succeeding trustee.

9 (b) Nature of service.--Service as the trustee of a business
10 trust by an association that is not a banking institution shall
11 not be deemed to constitute acting as a fiduciary for purposes
12 of the act of November 30, 1965 (P.L.847, No.356), known as the
13 Banking Code of 1965.

14 § 9506. Liability of trustees and beneficiaries.

15 (a) General rule.--[Liability to third parties for any act,
16 omission or obligation of a trustee of a business trust when
17 acting in such capacity shall extend to so much of the trust
18 estate as may be necessary to discharge such liability, but
19 personal liability shall not attach to the trustee or the
20 beneficiaries of the trust for any such act, omission or
21 liability.]

22 (1) Except as otherwise provided in the instrument, the
23 beneficiaries of a business trust shall be entitled to the
24 same limitation of personal liability as is extended to
25 shareholders in a domestic business corporation.

26 (2) Except as otherwise provided in the instrument, the
27 trustees of a trust, when acting in that capacity, shall not
28 be personally liable to any person other than the trust or a
29 beneficiary for any act or obligation of the trust or any
30 trustee.

(3) An obligation of a trust based upon a writing may be limited to a specific fund or other identified pool or group of assets of the trust.

* * *

(f) Permissible beneficiaries.--Except as otherwise provided by a statute, rule or regulation applicable to a particular profession, all of the [beneficiaries of] ultimate beneficial owners of interests in a business trust that renders one or more restricted professional services shall be licensed persons. As used in this subsection, the term "restricted professional services" shall have the meaning specified in section 8903 (relating to definitions and index of definitions).

* * *

(h) Medical professional liability.--A business trust shall be deemed to be a professional corporation for purposes of section 811 of the act of October 15, 1975 (P.L.390, No.111), known as the Health Care Services Malpractice Act.

Section 3. Amendment of Title 54.

As much of Title 54 as is hereinafter set forth is amended or added to read:

§ 302. Definitions.

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Business." Any commercial or professional activity.

"Entity." Any individual[,] or any corporation, association, partnership, joint-stock company, business trust, syndicate, joint adventureship or other combination or group of persons, regardless of whether it is organized or formed under the laws of this Commonwealth or any other jurisdiction.

1 "Fictitious name." Any assumed or fictitious name, style or
2 designation other than the proper name of the entity using such
3 name. The term includes [the], without limitation, any name [of
4 any association,] assumed by any general partnership, [business
5 trust,] syndicate, joint adventureship or similar combination or
6 group of persons.

7 "Proper name." When used with respect to an entity of a type
8 listed in the following paragraphs, the term means the name set
9 forth in:

10 (1) the articles of incorporation, if it is a
11 corporation;

12 (2) the statement of registration, if it is a limited
13 liability partnership;

14 (3) the certificate of limited partnership, if it is a
15 limited partnership;

16 (4) the statement of election, if it is an electing
17 partnership;

18 (5) the certificate of organization, if it is a limited
19 liability company;

20 (6) the articles of association, if it is a professional
21 association;

22 (7) the deed of trust or other instrument, if it is a
23 business trust; or

24 (8) a publicly filed document of a type listed in any of
25 the foregoing paragraphs even though the document is referred
26 to by a different title under the laws of any other
27 jurisdiction.

28 § 303. Scope of chapter.

29 * * *

30 (b) Mandatory registration.--

1 * * *

2 (2) Paragraph (1) shall not apply to any:

3 (i) Nonprofit or professional activities.

4 (ii) Activities [which] that are expressly or
5 impliedly prohibited by law from being carried on under a
6 fictitious name.

7 (iii) [Limited partnership which is registered in
8 the department pursuant to 15 Pa.C.S. Ch. 85 (relating to
9 limited partnerships) or under corresponding provisions
10 of prior law. The preceding sentence shall not apply to
11 any entity which includes the limited partnership as a
12 participant unless the entity is itself such a limited
13 partnership.] (Repealed).

14 (iv) Unincorporated nonprofit association.

15 (v) [Electing partnership existing under 15 Pa.C.S.
16 Ch. 87 (relating to electing partnerships).] (Repealed).

17 (vi) [Limited liability company which is registered
18 in the department pursuant to 15 Pa.C.S. Ch. 89 (relating
19 to limited liability companies).] (Repealed).

20 (vii) [Registered limited liability partnership
21 which is registered in the department pursuant to 15
22 Pa.C.S. Ch. 82 (relating to registered limited liability
23 partnerships).] (Repealed).

24 (viii) [Business trust which is registered in the
25 department pursuant to 15 Pa.C.S. Ch. 95 (relating to
26 business trusts).] (Repealed).

27 * * *

28 § 311. Registration.

29 * * *

30 (e) Duplicate use of names.--The fictitious name shall not

1 be the same as or confusingly similar to:

2 (1) The name of any domestic corporation, or any foreign
3 corporation authorized to do business in this Commonwealth,
4 or the name of any corporation or other association
5 registered at any time under Chapter 5 (relating to corporate
6 and other association names) unless such name is available or
7 is made available for use under the provisions or procedures
8 of 15 Pa.C.S. § [5303(b)(1)(i) or (ii)] 5303(b)(1) (relating
9 to duplicate use of names) or the equivalent.

10 (2) [The name of any limited partnership organized under
11 15 Pa.C.S. Ch. 85 (relating to limited partnerships).]
12 (Repealed).

13 (3) The name of any administrative department, board or
14 commission or other agency of this Commonwealth.

15 (4) A name the exclusive right to which is at the time
16 reserved by any other person whatsoever in the manner
17 provided by statute.

18 * * *

19 § 502. Certain additions to register.

20 * * *

21 (c) Limitation on names which may be registered.--

22 Notwithstanding subsections (a) and (b), no new name shall be
23 registered or deemed to be registered under this section [which
24 is the same as or confusingly similar to] that is not
25 distinguishable upon the records of the department from any
26 other name then registered or deemed to be registered under this
27 chapter, without the consent of the senior registrant.

28 * * *

29 Section 4. Repeals.

30 The following acts and parts of acts are repealed:

1 Section 32 of the act of June 1, 1889 (P.L.420, No.332),
2 entitled "A further supplement to an act entitled 'An act to
3 provide revenue by taxation,' approved the seventh day of June,
4 Anno Domini one thousand eight hundred and seventy-nine," to the
5 extent that it applies to the judicial dissolution of an
6 association under 15 Pa.C.S.

7 As much as reads ", and act as the attorney-in-fact and
8 authorized agent of such corporations for the service of process
9 thereon" in section 806 of the act of April 9, 1929 (P.L.177,
10 No.175), known as The Administrative Code of 1929.

11 Section 404(b) of the act of December 19, 1990 (P.L.834,
12 No.198), known as the GAA Amendments Act of 1990, insofar as it
13 applies to 15 Pa.C.S. §§ 1745 and 5745.

14 15 Pa.C.S. §§ 5543.1, 5546.1, 5764.1, 8103 and 8206.

15 SECTION 5. RETROACTIVITY.

<—

16 THE ADDITION OF 15 PA.C.S. § 1734 SHALL BE RETROACTIVE TO
17 JULY 1, 1998, AND THE AMENDMENT OF 15 PA.C.S. § 2524 SHALL BE
18 RETROACTIVE TO SEPTEMBER 28, 1998.

19 Section 5 6. Effective date.

<—

20 ~~This act shall take effect in 60 days.~~

<—

21 THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

<—

22 (1) THE AMENDMENT OR ADDITION OF 15 PA.C.S. ~~§ 524~~ §§
23 524, 1734 AND 2524 SHALL TAKE EFFECT IMMEDIATELY.

<—

24 (2) ~~THIS~~ SECTION 5 OF THIS ACT AND THIS SECTION SHALL
25 TAKE EFFECT IMMEDIATELY.

<—

26 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
27 DAYS.