
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2234 Session of
2014

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PICKETT, KNOWLES AND GODSHALL, MAY 5, 2014

REFERRED TO COMMITTEE ON COMMERCE, MAY 5, 2014

AN ACT

1 Amending Titles 15 (Corporations and Unincorporated
2 Associations) and 54 (Names) of the Pennsylvania Consolidated
3 Statutes, modernizing the law on corporations and
4 unincorporated associations by doing the following:

5 Adding provisions applicable to associations generally on
6 names, mergers, interest exchanges, conversions, divisions,
7 domestications and registration of foreign associations to do
8 business.

9 Extensively revising preliminary provisions on
10 definitions, communication, filing, fees, definitive and
11 contingent domestication of associations, entities generally,
12 entity transactions and foreign associations.

13 As to business corporations, extensively revising:
14 preliminary provisions on definitions, equitable
15 relief and applicability;

1 general incorporation provisions on names, articles
2 of incorporation, applicability and notice to demand
3 payment;

4 management and ownership provisions on shareholder
5 action;

6 fundamental change provisions on omissions,
7 termination, de facto transaction, proposals, special
8 treatment of shares, submission of matters to
9 shareholders, liabilities, sale of assets, division and
10 conversion;

11 registered corporation provisions on call of special
12 meetings of shareholders, shareholder transactions and
13 management adoption of merger plans;

14 benefit corporation provisions on applicability and
15 election of status; and

16 foreign business corporation provisions on admission,
17 excluded activities, names, commencing business,
18 certificates of authority, termination, address change
19 after withdrawal, name registration, penalties, powers
20 and duties, registered offices and domestication.

21 As to nonprofit corporations, extensively revising:

22 general provisions on definitions and applicability;
23 incorporation provisions on corporate name, changes
24 and reservation;

25 management and ownership provisions on action;

26 fundamental change provisions on authorization,
27 plans, notice, procedure, foreign corporations, articles,
28 filing, effectiveness, resulting effect, voluntary
29 transfer, division and conversion; and

30 foreign nonprofit corporate provisions on admission,

1 excluded activities, names, commencing business,
2 certificates of authority, organic change, termination,
3 address change after withdrawal, name registration,
4 penalties, powers and duties, registered offices and
5 domestication.

6 As to cooperative corporations, extensively revising
7 workers cooperative corporation provisions on definitions,
8 nature and articles.

9 As to partnerships and limited liability companies,
10 extensively revising:

11 registered limited liability partnership provisions
12 on name and foreign partnerships;

13 limited partnership provisions on definitions, name,
14 cancellation of certificate, merger and consolidation,
15 nonjudicial dissolution, division and foreign limited
16 partnerships; and

17 limited liability company provisions on definitions,
18 name, election, merger and consolidation, division and
19 foreign companies.

20 As to unincorporated associations, extensively revising:

21 preliminary provisions on definitions; and

22 professional associations provisions on
23 applicability.

24 As to business trusts, extensively revising provisions on
25 creation, status and termination, on documentation and on
26 foreign business trusts.

27 In names:

28 as to fictitious names, further providing for scope
29 and registration; and

30 as to corporate and associational names, further

1 providing for a register and for decennial filings.

2 Making editorial changes.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

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

7 Section 1.1. The introductory paragraph, the definitions of
8 "association," "cooperative corporation," "corporation for
9 profit," and "corporation not-for-profit," paragraph (2) of the
10 definition of "court" and the definitions of "domestic savings
11 association" and "savings association" in section 102 of Title
12 15 of the Pennsylvania Consolidated Statutes are amended and the
13 section is amended by adding definitions and a subsection to
14 read:

15 § 102. Definitions.

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

22 * * *

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

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

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

14 * * *

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

18 * * *

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

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

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

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

3 * * *

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

10 * * *

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

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

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

19 * * *

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

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

26 (1) a limited liability partnership; or

27 (2) an electing partnership.

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

1 (1) a limited liability partnership; or

2 (2) an electing partnership.

3 * * *

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

8 * * *

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

12 "Entity." A domestic or foreign:

13 (1) business corporation;

14 (2) nonprofit corporation;

15 (3) general partnership;

16 (4) limited partnership;

17 (5) limited liability company;

18 (6) unincorporated nonprofit association;

19 (7) professional association; or

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

22 * * *

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

27 (1) a limited liability partnership; or

28 (2) an electing partnership.

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

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

2 (1) a limited liability partnership; or

3 (2) an electing partnership.

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

6 * * *

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

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

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

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

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

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

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

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

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

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

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

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

9 (3) A partner of a general partnership.

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

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

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

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

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

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

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

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

27 * * *

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

1 includes the following:

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

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

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

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

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

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

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

14 The term includes the following:

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

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

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

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

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

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

24 (7) An associate in a professional association.

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

27 * * *

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

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

3 * * *

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

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

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

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

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

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

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

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

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

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

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

30 * * *

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

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

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

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

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

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

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

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

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

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

20 (7) The bylaws of a professional association.

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

24 * * *

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

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

30 * * *

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

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

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

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

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

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

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

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

21 "Receipt." Actual coming into possession.

22 "Receive." To actually come into possession.

23 * * *

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

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

29 * * *

30 ["Savings association." An association as defined in section

1 102(3) of the former act of December 14, 1967 (P.L.746, No.345),
2 known as the Savings Association Code of 1967.]

3 * * *

4 "Transfer." Includes:

5 (1) an assignment;

6 (2) a conveyance;

7 (3) a sale;

8 (4) a lease;

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

11 (6) a gift; and

12 (7) a transfer by operation of law.

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

15 (1) recognized at common law; or

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

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

23 * * *

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

28 Section 1.2. Section 109(b) of Title 15 is amended to read:

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

1 * * *

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

10 (1) The name of the representing association.

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

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

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

20 * * *

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

22 § 112. Receipt of electronic communications.

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

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

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

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

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

11 § 113. Delivery of document.

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

14 (1) personal delivery;

15 (2) mail;

16 (3) conventional commercial practice; and

17 (4) electronic transmission.

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

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

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

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

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

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

30 Section 3. Section 136(c) of Title 15 is amended and the

1 section is amended by adding a subsection to read:

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

3 * * *

4 (c) Effective date and time.--Except as otherwise provided
5 in this title and subject to sections 138 (relating to statement
6 of correction) and 141 (relating to withdrawal of filing before
7 effectiveness), a document [shall become] filed by the
8 department under a provision of this title is effective [upon
9 the filing thereof in the department.]:

10 (1) on the date and at the time of its delivery to the
11 department;

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

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

16 (i) at a specified time; or

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

19 * * *

20 (e) Redaction of information.--If law other than this title
21 prohibits the disclosure by the department of information
22 contained in a document in record form delivered to the
23 department for filing, the department shall accept the document
24 if it otherwise complies with this title but may redact the
25 information.

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

27 § 138. Statement of correction.

28 (a) Filing of statement.--Whenever any document authorized
29 or required to be [filed in the Department of State] delivered
30 to the department for filing by any provision of this title has

1 been so filed and is an inaccurate record of the [corporate or
2 other] action therein referred to or was defectively or
3 erroneously executed, the document may be corrected by [filing
4 in the department] delivering to the department for filing a
5 statement of correction [of the document]. The statement of
6 correction, except as provided in subsection (c), shall be
7 [executed] signed by the association or other person that
8 [effected the] delivered the inaccurate, defective or erroneous
9 document for filing and shall set forth:

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

15 (2) The statute by or under which the [corporation was
16 incorporated] association was formed, or the preceding filing
17 was made, in the case of a filing that does not constitute a
18 part of the [articles of incorporation of a corporation]
19 public organic record of an association.

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

21 (4) The portion of the document requiring correction in
22 corrected form or, if the document was erroneously executed,
23 a statement that the original document shall be deemed
24 reexecuted or stricken from the records of the department, as
25 the case may be.

26 (b) Effect of filing.--

27 (1) The corrected document shall be effective:

28 (i) Upon filing in the department, as to those
29 persons who are substantially and adversely affected by
30 the correction.

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

3 (2) A filing under this section shall not have the
4 effect of causing [original articles of incorporation of a
5 corporation or a similar type of document creating any other
6 form of association] the original public organic record of an
7 association to be stricken from the records of the department
8 but the [articles or other document] public organic record
9 may be corrected under this section.

10 (c) Filing pursuant to court order.--If the association or
11 other person refuses to [file] deliver to the department for
12 filing an appropriate statement of correction under this section
13 within ten business days after any person adversely affected has
14 made a [written demand therefor] demand in record form for the
15 correction, the affected person may apply to the court for an
16 order to compel the filing. If the court finds that a document
17 on file in the department is inaccurate [or defective],
18 defective or erroneous, it may direct the association or other
19 person who effected the inaccurate, defective or erroneous
20 filing to [file] deliver to the department for filing an
21 appropriate statement of correction [in the department], or it
22 may order the clerk to execute the statement under the seal of
23 the court and cause the statement to be [filed in the
24 department] delivered to the department for filing. In the
25 absence of fraud, an application may not be made to a court
26 under this subsection with respect to a document more than one
27 year after the date on which it was originally filed in the
28 department.

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

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

3 § 139. Tax clearance of certain fundamental transactions.

4 (a) [General rule] Requirement.--Except as provided in
5 subsection (c) or (d), [a domestic association shall not file
6 articles or a certificate of merger or consolidation effecting a
7 merger or consolidation into a nonqualified foreign association
8 or articles or a certificate of dissolution or a statement of
9 revival, a qualified foreign association shall not file an
10 application for termination of authority or similar document in
11 the Department of State and a domestic association shall not
12 file articles or a certificate of division dividing solely into
13 nonqualified foreign associations unless the articles,
14 certificate, application or other document are accompanied by]
15 clearance certificates from the Department of Revenue and the
16 [Office of Employment Security of the] Department of Labor and
17 Industry, evidencing the payment by the association of all taxes
18 and charges due the Commonwealth required by law[.] must be
19 delivered to the department for filing when any of the following
20 is delivered to the department for filing:

21 (1) Articles or a statement or certificate of merger
22 merging a domestic association into a nonregistered foreign
23 association.

24 (2) Articles or a statement or certificate of conversion
25 or domestication effecting a conversion or domestication of a
26 domestic association into a nonregistered foreign
27 association.

28 (3) Articles or a certificate of dissolution or a
29 statement of revival of a domestic association.

30 (4) An application for termination of registration or

1 similar document by a registered foreign association.

2 (5) Articles or a statement or certificate of division
3 dividing a domestic association solely into foreign
4 associations.

5 * * *

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

10 (1) the foreign association that is the surviving,
11 converted or domesticated association registers to do
12 business in this Commonwealth; or

13 (2) at least one of the new foreign associations
14 resulting from the division registers to do business in this
15 Commonwealth.

16 Section 5. Title 15 is amended by adding sections to read:
17 § 141. Withdrawal of filing before effectiveness.

18 (a) General rule.--A document in record form delivered to
19 the department for filing may be withdrawn before it takes
20 effect by delivering to the department for filing a statement of
21 withdrawal, except that a document that may be abandoned under
22 any of the following sections may not be withdrawn under this
23 section:

24 Section 334 (relating to amendment or abandonment of plan
25 of merger).

26 Section 344 (relating to amendment or abandonment of plan
27 of interest exchange).

28 Section 354 (relating to amendment or abandonment of plan
29 of conversion).

30 Section 365 (relating to amendment or abandonment of plan

1 of division).

2 Section 374 (relating to amendment or abandonment of plan
3 of domestication).

4 (b) Requirements for statement of withdrawal.--A statement
5 of withdrawal must:

6 (1) be signed by a person with the authority to sign the
7 statement; and

8 (2) identify the document to be withdrawn.

9 (c) Effect of statement of withdrawal.--Upon filing by the
10 department of a statement of withdrawal, the action or
11 transaction evidenced by the original document shall not take
12 effect.

13 § 142. Effect of signing filings.

14 (a) Affirmation of truth.--Signing a document delivered to
15 the department for filing is an affirmation under the penalties
16 provided in 18 Pa.C.S. § 4904 (relating to unsworn falsification
17 to authorities) that the facts stated in the document are true
18 in all material respects.

19 (b) Signature by agent or legal representative.--A document
20 filed under this title may be signed by an agent. If this title
21 requires a particular individual to sign a document and the
22 individual is deceased or incompetent, the document may be
23 signed by a legal representative of the individual on behalf of
24 the individual.

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

28 § 143. Liability for inaccurate information in filing.

29 If a document that is delivered to the department for filing
30 under this title and filed by the department contains inaccurate

1 information at the time of delivery to the department, a person
2 that suffers a loss by reliance on the information may recover
3 damages for the loss from a person that signed the record or
4 caused another to sign it on behalf of the person and knew at
5 the time the record was delivered that the information was
6 inaccurate.

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

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

12 (1) the person to sign the document;

13 (2) the person to deliver the document to the department
14 for filing; or

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

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

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

21 § 145. Subsistence certificate.

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

24 (1) a subsistence certificate for a domestic filing
25 entity or domestic limited liability partnership; or

26 (2) a certificate of registration for a registered
27 foreign association.

28 (b) Contents of certificate.--A certificate under subsection
29 (a) must state:

30 (1) the name of the domestic filing entity or domestic

1 limited liability partnership or the name under which the
2 registered foreign association is registered in this
3 Commonwealth.

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

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

9 (c) Effect of certificate.--Subject to any qualification
10 stated in the certificate, a certificate issued by the
11 department under subsection (a) may be relied on as conclusive
12 evidence of the facts stated in the certificate.

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

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

19 [(1) Domestic corporations:

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

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

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

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

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

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

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

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

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

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

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

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

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

12 * * *

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

15 SUBCHAPTER D

16 [DEFINITIVE AND CONTINGENT] DOMESTICATION

17 OF CERTAIN ALIEN ASSOCIATIONS

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

20 § 161. Domestication of certain alien associations.

21 * * *

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

25 (1) The name of the association. If the name is in a
 26 foreign language, it shall be set forth in Roman letters or
 27 characters or Arabic or Roman numerals. If the name is one
 28 that is rendered unavailable for use by a [corporation by any
 29 provision of section 1303(b) or (c) (relating to corporate
 30 name)] domestic entity by section 202(b) or (c) (relating to

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

6 * * *

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

13 * * *

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

17 Section 4161 (relating to domestication).

18 Section 6161 (relating to domestication).

19 Section 8590 (relating to domestication).

20 Section 8982 (relating to domestication).

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

24 (f) Definition.--As used in this section, the term
25 "association," except as restricted by subsection (e), includes
26 any [alien] incorporated organization, private law corporation
27 (whether or not organized for business purposes), public law
28 corporation, partnership, proprietorship, joint venture,
29 foundation, trust, association or similar organization or entity
30 existing under the laws of any jurisdiction other than this

1 Commonwealth.

2 * * *

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

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

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

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

16 (1) In the case of:

17 (i) a corporation subject to section 4161 (relating
18 to domestication), the statements required to be set
19 forth in articles of domestication (except the statement
20 required by section 4161(b)(6));

21 (ii) a corporation subject to section 6161 (relating
22 to domestication), the statements required to be set
23 forth in articles of domestication (except the statement
24 required by section 6161(b)(6));

25 (iii) a limited partnership subject to section 8590
26 (relating to domestication), the statements required to
27 be set forth in a certificate of domestication (except
28 the statement required by section 8590(b)(5));

29 (iv) a limited liability company subject to section
30 8982 (relating to domestication), the statements required

1 to be set forth in a certificate of domestication (except
2 the statement required by section 8982(b)(5)); or

3 (v) any other association, the statements required
4 by section 161(b) (relating to statement of
5 domestication) to be set forth in a statement of
6 domestication (except the statement required by section
7 161(b)(5)).

8 (2) A statement that the effectiveness of the statement
9 is contingent upon the subsequent filing of a statement of
10 consummation of domestication.

11 (3) A statement that the filing of the statement of
12 contingent domestication and the delegation of authority to
13 file a statement of consummation of domestication has been
14 authorized (unless its charter or other organic documents
15 require a greater vote):

16 (i) by a majority vote of the votes cast by all
17 shareholders entitled to vote thereon and, if any class
18 of shares is entitled to vote thereon as a class, a
19 majority of the votes cast in each class vote, in the
20 case of a corporation subject to section 4161;

21 (ii) by a majority vote of the votes cast by all
22 members, if any, entitled to vote thereon and, if any
23 class of members is entitled to vote thereon as a class,
24 a majority of the votes cast in each class vote, in the
25 case of a corporation subject to section 6161;

26 (iii) by a majority vote of the votes cast by all
27 partners entitled to vote thereon and, if any class of
28 partners is entitled to vote thereon as a class, a
29 majority of the votes cast in each class vote, in the
30 case of a limited partnership subject to section 8590;

1 (iv) by a majority vote of the votes cast by all
2 members entitled to vote thereon and, if any class of
3 members is entitled to vote thereon as a class, a
4 majority of the votes cast in each class vote, in the
5 case of a limited liability company subject to section
6 8982; or

7 (v) by a majority in interest of the shareholders,
8 members or other proprietors of the association in any
9 other case.

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

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

17 (2) A statement that either:

18 (i) an emergency condition exists in the
19 jurisdiction the law of which governs the internal
20 affairs of the association and that in the judgment of
21 the management of the association a temporary transfer of
22 the domicile of the association to this Commonwealth is
23 warranted by the circumstances; or

24 (ii) an event has occurred that, under the law of
25 the jurisdiction governing the internal affairs of the
26 association, permits the association to transfer its
27 domicile.

28 (d) Statement of termination of domestication.--At any time
29 after the filing of a statement of consummation of
30 domestication, the association may file in the department a

1 statement of termination of domestication which shall be
2 executed by the association and shall set forth:

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

5 (2) If a statement of consummation of domestication has
6 theretofore been filed and is then in effect, a statement
7 that the association elects to terminate its domicile in this
8 Commonwealth.

9 (3) A statement that either:

10 (i) the statement of contingent domestication is
11 reinstated pending the filing in the department of a new
12 statement of consummation of domestication; or

13 (ii) the statement of contingent domestication is
14 withdrawn.

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

18 (f) Effect of filing statement of consummation of
19 domestication.--Upon the filing of a statement of consummation
20 of domestication, and until the filing of a statement of
21 termination of domestication, the association shall have the
22 status under the law of this Commonwealth of:

23 (1) a business corporation domesticated under section
24 4161, in the case of a corporation subject to that section;

25 (2) a nonprofit corporation domesticated under section
26 6161, in the case of a corporation subject to that section;

27 (3) a limited partnership domesticated under section
28 8590, in the case of a limited partnership subject to that
29 section;

30 (4) a limited liability company domesticated under

1 section 8982, in the case of a limited liability company
2 subject to that section; or

3 (5) an association domesticated under section 161, in
4 any other case.

5 (g) Effect of filing a statement of termination of
6 domestication.--Upon the filing of a statement of termination of
7 domestication, the association shall under the law of this
8 Commonwealth revert to the status it held prior to the filing
9 of:

10 (1) the statement of consummation of domestication, if
11 the statement of termination of domestication states that the
12 statement of contingent domestication is reinstated; or

13 (2) the statement of contingent domestication, if the
14 statement of termination of domestication states that the
15 statement of contingent domestication is withdrawn.

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

22 (i) Definition.--As used in this section, the term
23 "association" includes any incorporated organization, private
24 law corporation (whether or not organized for business
25 purposes), public law corporation, partnership, proprietorship,
26 joint venture, foundation, trust, association or similar
27 organization or entity if such association or entity immediately
28 prior to effecting an initial filing under this section is an
29 association or entity governed by the law of any jurisdiction
30 other than the United States or any state, Puerto Rico or any

1 possession or territory of the United States.

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

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

6 CHAPTER 2

7 ENTITIES GENERALLY

8 Subchapter

9 A. Names

10 B. (Reserved)

11 SUBCHAPTER A

12 NAMES

13 Sec.

14 201. Definitions.

15 202. Requirements for names generally.

16 203. Corporation names.

17 204. Partnership and limited liability company names.

18 205. Business trust names.

19 206. Requirements for foreign association names.

20 207. Required name changes by senior associations.

21 208. Reservation of name.

22 209. Registration of name of nonregistered foreign association.

23 § 201. Definitions.

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

27 "Covered association." Any of the following:

28 (1) a domestic filing entity;

29 (2) a domestic limited liability partnership;

30 (3) an electing partnership; or

1 (4) a registered foreign association.

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

3 (1) the public organic record of a domestic filing
4 association;

5 (2) the statement of registration of a limited liability
6 partnership;

7 (3) the statement of election of an electing
8 partnership; or

9 (4) the statement of registration of a registered
10 foreign association under section 412(a)(1)(i) (relating to
11 foreign registration statement) or, if that name does not
12 comply with this section, the name set forth in the statement
13 under section 412(a)(1)(ii).

14 § 202. Requirements for names generally.

15 (a) General rule.--The proper name of a covered association
16 may be in any language, but it must be expressed in Roman
17 letters or characters or Arabic or Roman numerals.

18 (b) Duplicate use of names.--Except as provided in
19 subsection (f), the proper name of a covered association must be
20 distinguishable on the records of the department from the
21 following:

22 (1) The proper name of another covered association or
23 the name of an association registered at any time under 54
24 Pa.C.S. Ch. 5 (relating to corporate and other association
25 names), unless the covered association or other association
26 has:

27 (i) stated that it is about to change its name, is
28 about to cease to do business, is being wound up or is a
29 foreign association about to withdraw from doing business
30 in this Commonwealth, and the statement and a consent to

1 the adoption of the name are delivered to the department
2 for filing;

3 (ii) filed a tax return or certificate with the
4 Department of Revenue indicating that the covered
5 association or other association is out of existence or
6 has failed for a period of three successive years to file
7 with the Department of Revenue a report or return
8 required by law and the fact of the failure has been
9 certified by the Department of Revenue to the Department
10 of State;

11 (iii) abandoned its name under the laws of its
12 jurisdiction of formation, by amendment, merger,
13 consolidation, division, expiration, dissolution or
14 otherwise, without its name being adopted by a successor,
15 and an official record of that fact, certified as
16 provided under 42 Pa.C.S. § 5328 (relating to proof of
17 official records), is presented by a person to the
18 department; or

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

21 (2) A name that has been reserved or registered pursuant
22 to section 208 (relating to reservation of name) or 209
23 (relating to registration of name of nonregistered foreign
24 association). A name shall be rendered unavailable for use
25 under this subchapter by reason of the filing by the
26 department of an assumed or fictitious name registration
27 under 54 Pa.C.S. Ch. 3 (relating to fictitious names) only to
28 the extent expressly provided in 54 Pa.C.S. Ch. 3.

29 (c) Required approvals or conditions.--

30 (1) The proper name of a covered association shall not

1 imply that the association is:

2 (i) A governmental agency of the Commonwealth or of
3 the United States.

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

8 (A) The association is a Pennsylvania bank
9 holding company or is otherwise authorized by statute
10 to use its name.

11 (B) The association is a nonprofit corporation
12 holding property in trust under section 5547
13 (relating to authority to take and hold trust
14 property) and has been converted from a trust company
15 under Subchapter E of Chapter 3 (relating to
16 conversion). The preceding sentence controls over
17 section 805(b) of the Banking Code of 1965.

18 (iii) An insurance company, nor contain any of the
19 words "annuity," "assurance," "beneficial," "bond,"
20 "casualty," "endowment," "fidelity," "fraternal,"
21 "guaranty," "indemnity," "insurance," "insurer,"
22 "reassurance," "reinsurance," "surety" or "title" when
23 used in a manner as to imply that the association is
24 engaged in the business of writing insurance or
25 reinsurance as principal or any other words of like
26 purport unless it is duly licensed as an insurance
27 company by its jurisdiction of formation or the Insurance
28 Department certifies that it has no objection to the use
29 by the association or proposed association of the
30 designation. The proper name of a domestic insurance

1 company shall:

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

4 (B) clearly designate the object and purpose of
5 the association.

6 (iv) A public utility furnishing electric or gas
7 service to the public, unless the association or proposed
8 association has as an express purpose the furnishing of
9 service subject to the jurisdiction of the Pennsylvania
10 Public Utility Commission or the Federal Energy
11 Regulatory Commission.

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

14 (2) The proper name of a covered association shall not
15 contain:

16 (i) The word "college," "university" or "seminary"
17 when used in a manner as to imply that it is an
18 educational institution conforming to the standards and
19 qualifications prescribed by the State Board of
20 Education, unless there is submitted a certificate from
21 the Department of Education certifying that the
22 association or proposed association is entitled to use
23 that designation.

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

26 (iii) The words "engineer" or "engineering,"
27 "surveyor" or "surveying" or any other word implying that
28 any form of the practice of engineering or surveying as
29 defined in the act of May 23, 1945 (P.L.913, No.367),
30 known as the Engineer, Land Surveyor and Geologist

1 Registration Law, is provided unless at least one of the
2 individuals signing the initial public organic record of
3 the association or one of the governors of the existing
4 association has been properly registered with the State
5 Registration Board for Professional Engineers in the
6 practice of engineering or surveying and there is
7 submitted to the department a certificate from the board
8 to that effect.

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

20 (v) The word "cooperative" or an abbreviation
21 thereof unless the corporation is a cooperative
22 corporation.

23 (vi) Any other words prohibited by law. See section
24 103 (relating to subordination of title to regulatory
25 laws).

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

1 (e) Remedies for violation of section.--The use of a name in
2 violation of this section shall not vitiate or otherwise affect
3 the existence or any acts of an association, but a court having
4 jurisdiction may enjoin the association from using or continuing
5 to use a name in violation of this section on the application
6 of:

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

10 (2) a person adversely affected.

11 (f) Court-ordered use of name.--Subsection (b) shall not
12 apply if an association delivers to the department for filing a
13 certified copy of a final judgment of a court of competent
14 jurisdiction establishing the right of the association to use a
15 name in this Commonwealth.

16 § 203. Corporation names.

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

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

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

22 (3) words or abbreviations of like import used in a
23 jurisdiction other than this Commonwealth.

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

28 § 204. Partnership and limited liability company names.

29 (a) Limited liability partnerships.--The proper name of a
30 domestic limited liability partnership or registered foreign

1 limited liability partnership must contain the term "company,"
2 "limited" or "limited liability partnership," or an abbreviation
3 of one of those terms, or words or abbreviations of like import
4 used in a jurisdiction other than this Commonwealth.

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

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

9 (2) if it is a limited liability limited partnership,
10 must contain:

11 (i) the term "company," "limited" or "limited
12 liability limited partnership" or a term of like import;
13 or

14 (ii) an abbreviation of a term under subparagraph
15 (i); and

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

17 (c) Limited liability companies.--The proper name of a
18 domestic limited liability company or registered foreign limited
19 liability company must contain the term "company," "limited" or
20 "limited liability company," or an abbreviation of one of those
21 terms, or words or abbreviations of like import used in a
22 jurisdiction other than this Commonwealth.

23 § 205. Business trust names.

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

27 § 206. Requirements for foreign association names.

28 (a) General rule.--The department shall not file a
29 registration statement pursuant to section 412 (relating to
30 foreign registration statement) for a foreign association that,

1 except as provided under subsection (b), has a name that is
2 rendered unavailable for use by a covered association under
3 section 202(a), (b) or (c)(1)(i), (iii), (iv) or (v) or (2)
4 (relating to requirements for names generally).

5 (b) Exception.--The provisions of section 202(b) and (c)
6 shall not prevent the filing of a registration statement of a
7 foreign association setting forth a name that is prohibited by
8 section 202(b) and (c) if the foreign association delivers to
9 the department for filing a resolution of its governors adopting
10 a name for use in registering to do business in this
11 Commonwealth that is available for use by a covered association.

12 § 207. Required name changes by senior associations.

13 (a) Loss of rights to name.--A covered association shall
14 cease to have the exclusive right to its proper name if the
15 association:

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

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

20 (3) has failed to file the most recent required
21 decennial filing under 54 Pa.C.S. § 503 (relating to
22 decennial filings required).

23 (b) Adoption of new name on reactivation.--Upon the removal
24 of the reason why a covered association has lost the exclusive
25 right to its proper name under subsection (a), the association
26 shall make inquiry with the Department of State with regard to
27 the availability of its name and, if the name has been
28 appropriated by another person, the covered association shall
29 adopt a new name in accordance with law before resuming its
30 activities.

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

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

16 (2) any person adversely affected.

17 § 208. Reservation of name.

18 (a) General rule.--The exclusive right to the use of a name
19 may be reserved by any person. The reservation shall be made by
20 delivering to the department an application to reserve a
21 specified name, signed by the applicant. If the department finds
22 that the name is available for use, it shall reserve the name
23 for the exclusive use of the applicant for a period of 120 days.

24 (b) Transfer of reservation.--The right to exclusive use of
25 a name reserved pursuant to subsection (a) may be transferred to
26 any other person by delivering to the department a notice in
27 record form of the transfer, signed by the person who reserved
28 the name, and specifying the name and address of the other
29 person.

30 (c) Cross references.--See:

1 Section 134 (relating to docketing statement).

2 Section 135 (relating to requirements to be met by filed
3 documents).

4 Section 209 (relating to registration of name of
5 nonregistered foreign association).

6 § 209. Registration of name of nonregistered foreign
7 association.

8 (a) General rule.--A nonregistered foreign association may
9 register its name under 54 Pa.C.S. Ch. 5 (relating to corporate
10 and other association names) if the name is available for use by
11 a registered foreign association pursuant to section 206
12 (relating to requirements for foreign association names) by
13 delivering to the department for filing an application for
14 registration of name, signed by the association, setting forth:

15 (1) The name of the association.

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

18 (b) Annual renewal.--An association that has in effect a
19 registration of its name may renew the registration from year to
20 year by annually delivering to the department for filing an
21 application for renewal setting forth the facts required to be
22 set forth in an original application for registration. A
23 renewal application may be filed between October 1 and December
24 31 in each year and shall extend the registration for the
25 following calendar year.

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

30 (d) Cross references.--See sections 134 (relating to

1 docketing statement) and 135 (relating to requirements to be met
2 by filed documents).

3 SUBCHAPTER B

4 (RESERVED)

5 CHAPTER 3

6 ENTITY TRANSACTIONS

7 Subchapter

8 A. Preliminary Provisions

9 B. Approval of Entity Transactions

10 C. Merger

11 D. Interest Exchange

12 E. Conversion

13 F. Division

14 G. Domestication

15 SUBCHAPTER A

16 PRELIMINARY PROVISIONS

17 Sec.

18 311. Short title of chapter.

19 312. Definitions.

20 313. Relationship of chapter to antitakeover provisions.

21 314. Regulatory conditions and required notices and approvals.

22 315. Nature of transactions.

23 316. Contents of plan.

24 317. Contractual dissenters rights in entity transactions.

25 318. Excluded entities and transactions.

26 319. Party to plan or transaction.

27 320. Submission of matters to interest holders.

28 § 311. Short title of chapter.

29 This chapter shall be known and may be cited as the Entity
30 Transactions Law.

1 § 312. Definitions.

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

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

8 "Acquiring association." The domestic entity or foreign
9 association that acquires all of one or more classes or series
10 of interests of the acquired association in an interest
11 exchange.

12 "Conversion." A transaction authorized by Subchapter E
13 (relating to conversion).

14 "Converted association." The converting association as it
15 continues in existence after a conversion.

16 "Converting association." The domestic entity or domestic
17 banking institution that approves a plan of conversion pursuant
18 to section 353 (relating to approval of conversion) or the
19 foreign association that approves a conversion pursuant to the
20 law of its jurisdiction of formation.

21 "Dividing association." The domestic entity that approves a
22 plan of division pursuant to section 363 (relating to approval
23 of division) or 364 (relating to division without interest
24 holder approval) or the foreign association that approves a
25 division pursuant to the law of its jurisdiction of formation.

26 "Division." A transaction authorized by Subchapter F
27 (relating to division).

28 "Domesticated entity." The domesticating entity as it
29 continues in existence after a domestication.

30 "Domesticating entity." The domestic entity that approves a

1 plan of domestication pursuant to section 373(a) (relating to
2 approval of domestication) or the foreign entity that approves a
3 domestication pursuant to section 373(b).

4 "Domestication." A transaction authorized by Subchapter G
5 (relating to domestication).

6 "Interest exchange." A transaction authorized by Subchapter
7 D (relating to interest exchange).

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

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

11 (i) Solely by reason of the status of the person as
12 an interest holder.

13 (ii) By the organic rules of the association that
14 make one or more specified interest holders or categories
15 of interest holders liable in their capacity as interest
16 holders for all or specified liabilities of the entity.

17 (2) An obligation of an interest holder under the
18 organic rules of an association to contribute to the
19 association.

20 "Merger." A transaction in which two or more merging
21 associations are combined into a surviving association pursuant
22 to a document filed by the department or similar office in
23 another jurisdiction.

24 "Merging association." A domestic entity, domestic banking
25 institution or foreign association that is a party to a merger
26 under Subchapter C (relating to merger) and exists immediately
27 before the merger becomes effective.

28 "New association." An association that is created by a
29 division.

30 "Plan." A plan of merger, plan of interest exchange, plan of

1 conversion, plan of division or plan of domestication, as
2 applicable.

3 "Protected agreement." Either of the following:

4 (1) A record evidencing indebtedness and any related
5 agreement in effect on {the Legislative Reference Bureau
6 shall insert here the effective date of this chapter}.

7 (2) A protected governance agreement.

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

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

12 (2) An agreement that is binding on any of the governors
13 or interest holders of a domestic entity or foreign
14 association on {the Legislative Reference Bureau shall insert
15 here on the effective date of this chapter}.

16 "Registered office." In the case of a domestic banking
17 institution that is a corporation, the principal place of
18 business of the corporation set forth in its articles of
19 incorporation as required by section 1004 of the act of November
20 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965.

21 "Resulting association." A dividing association, if it
22 survives the division, or a new association.

23 "Surviving association." The domestic entity, domestic
24 banking institution or foreign association that continues in
25 existence after or is created by a merger under Subchapter C
26 (relating to merger).

27 (b) Index of definitions.--Following is a nonexclusive list
28 of definitions in section 102 (relating to definitions) that
29 apply to this chapter:

30 "Act" or "action."

1 "Banking institution."
2 "Department."
3 "Dissenters rights."
4 "Domestic entity."
5 "Entity."
6 "Filing entity."
7 "Foreign entity."
8 "Governor."
9 "Interest."
10 "Interest holder."
11 "Obligation."
12 "Organic law."
13 "Organic rules."
14 "Private organic rules."
15 "Property."
16 "Public organic record."
17 "Record form."
18 "Registered foreign association."
19 "Representative."
20 "Sign."
21 "Transfer."
22 "Type."

23 § 313. Relationship of chapter to antitakeover provisions.

24 A transaction under this chapter to which a registered
25 corporation is a party may not impair any right or obligation
26 that a person has under, and may not make applicable to the
27 corporation, any provision of section 2538 (relating to approval
28 of transactions with interested shareholders) or Subchapters E
29 (relating to control transactions), F (relating to business
30 combinations), G (relating to control-share acquisitions), H

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

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

10 (2) If the corporation survives the transaction, the
11 approval of the transaction is by a vote of the shareholders
12 or directors which would be sufficient to impair the right or
13 obligation under, or make the corporation subject to, the
14 provision.

15 § 314. Regulatory conditions and required notices and
16 approvals.

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

26 (b) Certain regulated businesses.--A domestic converted
27 association, domestic domesticated entity, domestic new
28 association, domestic resulting association or domestic
29 surviving association may not acquire as a result of a
30 transaction under this chapter the power to engage in the

1 business of banking, insurance or acting as a trust company
2 unless an association of that type is authorized to have and
3 exercise that power under the law of this Commonwealth.

4 (c) Charitable assets.--Property held for a charitable
5 purpose under the law of this Commonwealth by a domestic or
6 foreign association immediately before a transaction under this
7 chapter becomes effective may not, as a result of the
8 transaction, be diverted from the objects for which it was
9 donated, granted, devised or otherwise transferred unless, to
10 the extent required by or pursuant to the law of this
11 Commonwealth concerning cy pres or other law dealing with
12 nondiversion of charitable assets, the domestic or foreign
13 association obtains an appropriate order of a court of competent
14 jurisdiction specifying the disposition of the property.

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

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

26 § 315. Nature of transactions.

27 (a) De facto transaction doctrine abolished.--The doctrine
28 of de facto mergers, consolidations and other fundamental
29 transactions is abolished and the rules laid down by *Bloch v.*
30 *Baldwin Locomotive Works*, 75 Pa. D. & C. 24 (Pa.C.P. 1950), and

1 Marks v. The Autocar Co., 153 F.Supp. 768 (E.D. Pa. 1954), and
2 similar cases are abrogated. A transaction to which a domestic
3 business corporation is a party that in form satisfies the
4 requirements of this chapter and Part II, Subpart B (relating to
5 business corporations) may be challenged by reason of its
6 substance only to the extent permitted by section 1105 (relating
7 to restriction on equitable relief).

8 (b) Nonexclusivity.--The fact that a sale or conversion of
9 the interests in or assets of an association or a transaction
10 under a particular subchapter produces a result that could be
11 accomplished in any other manner permitted by a different
12 subchapter or other law shall not be a basis for
13 recharacterizing the sale, conversion or transaction as a
14 different form of sale, conversion or transaction under any
15 other subchapter or other law.

16 § 316. Contents of plan.

17 (a) Omission of certain provisions.--A plan as delivered to
18 the department for filing under any provision of this chapter in
19 lieu of a statement of merger, statement of interest exchange,
20 statement of conversion, statement of division or statement of
21 domestication may omit all provisions of the plan except
22 provisions, if any, that:

23 (1) are intended to amend or constitute the operative
24 provisions of the public organic record of a domestic
25 association as in effect subsequent to the effectiveness of
26 the plan;

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

30 (3) allocate or specify the respective property and

1 liabilities of the resulting associations, in the case of a
2 plan of division.

3 (b) Availability of full plan.--If any of the provisions of
4 a plan are omitted from the plan as delivered to the department
5 as permitted under subsection (a), the plan must state that the
6 full text of the plan is on file at the principal office of the
7 surviving, acquiring, converted, new or resulting association or
8 domesticated entity and the address thereof. An association that
9 takes advantage of this section shall furnish a copy of the full
10 text of the plan, on request and without cost, to any interest
11 holder of any domestic or foreign association that was a party
12 to the plan.

13 (c) Reference to external facts.--A plan may refer to facts
14 ascertainable outside of the plan if the manner in which the
15 facts will operate on the plan is specified in the plan. The
16 facts may include the occurrence of an event or a determination
17 or action by a person, whether or not the event, determination
18 or action is within the control of a party to the transaction.
19 § 317. Contractual dissenters rights in entity transactions.

20 (a) General rule.--An interest holder of a domestic entity
21 other than a nonprofit corporation or unincorporated nonprofit
22 association shall be entitled to contractual dissenters rights
23 in connection with a transaction under this chapter, even though
24 the interest holder would not otherwise be entitled to
25 dissenters rights under this title to the extent provided:

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

27 (2) in the plan.

28 (b) Procedures for contractual dissenters rights.--If an
29 interest holder is entitled to contractual dissenters rights
30 pursuant to subsection (a), Subchapter D of Chapter 15 (relating

1 to dissenters rights) applies to the extent practicable except
2 as otherwise provided in the organic rules of the domestic
3 entity or the plan.

4 (c) Cross references.--See sections 329 (relating to special
5 treatment of interest holders) and 1571(c) (relating to
6 application and effect of subchapter).

7 § 318. Excluded entities and transactions.

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

10 (1) A cooperative corporation subject to Chapter 73
11 (relating to electric cooperative corporations).

12 (2) A cooperative corporation subject to Chapter 75
13 (relating to cooperative agricultural associations).

14 (3) A beneficial, benevolent, fraternal or fraternal
15 benefit society:

16 (i) having a lodge system and a representative form
17 of government; or

18 (ii) transacting any type of insurance.

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

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

27 (2) Paragraph (1) does not apply to a health maintenance
28 organization.

29 (c) Cross references.--See sections 103 (relating to
30 subordination of title to regulatory laws) and 314 (relating to

1 regulatory conditions and required notices and approvals).

2 § 319. Party to plan or transaction.

3 An association that approves a plan in its capacity as an
4 interest holder or creditor of a domestic or foreign association
5 that is a party to the transaction under the plan, or that
6 furnishes all or a part of the consideration contemplated by a
7 plan, does not thereby become a party to the plan or the
8 transaction under the plan for purposes of this chapter.

9 § 320. Submission of matters to interest holders.

10 (a) General rule.--A domestic association may agree, in
11 record form, to submit a plan to its interest holders whether or
12 not the governors determine, at any time after approving the
13 matter, that the matter is no longer advisable and recommend
14 that the interest holders reject or vote against it, regardless
15 of whether the governors change their recommendation. If an
16 association so agrees to submit a matter to its interest
17 holders, the matter is deemed to have been validly adopted by
18 the association when it has been approved by the interest
19 holders.

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

23 SUBCHAPTER B

24 APPROVAL OF ENTITY TRANSACTIONS

25 Sec.

26 321. Approval by business corporation.

27 322. Approval by nonprofit corporation.

28 323. Approval by general partnership.

29 324. Approval by limited partnership.

30 325. Approval by limited liability company.

1 326. Approval by professional association.

2 327. Approval by business trust.

3 328. Approval by unincorporated nonprofit association.

4 329. Special treatment of interest holders.

5 330. Alternative means of approval of transactions.

6 § 321. Approval by business corporation.

7 (a) Proposal of plan.--Except where the approval of the
8 board of directors is unnecessary pursuant to section 330
9 (relating to alternative means of approval of transactions), a
10 plan shall be proposed in the case of a domestic business
11 corporation by the adoption by the board of directors of a
12 resolution approving the plan. Except where the approval of the
13 shareholders is unnecessary under this chapter, the board of
14 directors shall direct that the plan be submitted to a vote of
15 the shareholders entitled to vote thereon at a regular or
16 special meeting of the shareholders.

17 (b) Notice of meeting of shareholders.--Notice in record
18 form of the meeting of shareholders that will act on the
19 proposed plan must be given to each shareholder of record,
20 whether or not entitled to vote thereon, of each domestic
21 business corporation that is a party to the transaction under
22 the plan. There shall be included in or enclosed with the notice
23 a copy of the proposed plan or a summary thereof and any notice
24 required by section 329 (relating to special treatment of
25 interest holders) or 1574 (relating to notice of intention to
26 dissent). The notice must state that a copy of the organic rules
27 of the surviving, acquired, converted, new or resulting
28 association or domesticated entity as they will be in effect
29 immediately following the transaction will be furnished to any
30 shareholder of the corporation giving the notice on request and

1 without cost.

2 (c) Shareholder vote required.--Except as provided in
3 section 1757 (relating to action by shareholders) or subsection
4 (d), a plan shall be adopted by a domestic business corporation
5 that is a party to the transaction under the plan upon receiving
6 the affirmative vote of a majority of the votes cast by all
7 shareholders entitled to vote on the plan and, if any class or
8 series of shares is entitled to vote thereon as a class, the
9 affirmative vote of a majority of the votes cast in each class
10 vote. The holders of any class or series of shares of a domestic
11 business corporation that is a party to a transaction under a
12 plan that would effect any change in the articles of the
13 corporation shall be entitled to vote as a class on the plan if
14 they would have been entitled to a class vote under the
15 provisions of section 1914 (relating to adoption of amendments)
16 had the change been accomplished under Subchapter B of Chapter
17 19 (relating to amendment of articles). Except as provided in
18 section 330, a proposed plan shall not be deemed to have been
19 adopted by a domestic business corporation unless it has also
20 been approved by the board of directors, regardless of the fact
21 that the board has directed or suffered the submission of the
22 plan to the shareholders for action.

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

24 (1) Unless otherwise required by the organic rules, a
25 plan of merger shall not require the approval of the
26 shareholders of a domestic business corporation that is a
27 merging association if:

28 (i) whether or not the corporation is the surviving
29 association:

30 (A) the surviving association is a domestic

1 business corporation and its articles are identical
2 to the articles of the corporation for which
3 shareholder approval is not required, except for
4 changes that could be made without shareholder
5 approval pursuant to section 1914(c);

6 (B) each share of the corporation outstanding
7 immediately prior to the effectiveness of the merger
8 is to continue as or be converted into, except as may
9 be otherwise agreed by the holder thereof, an
10 identical share of the surviving association; and

11 (C) the plan provides that the shareholders of
12 the corporation are to hold in the aggregate shares
13 of the surviving association to be outstanding
14 immediately after the effectiveness of the merger
15 entitled to cast at least a majority of the votes
16 entitled to be cast generally for the election of
17 directors;

18 (ii) immediately prior to the adoption of the plan
19 and at all times thereafter prior to the effectiveness of
20 the merger, another association owns directly or
21 indirectly 80% or more of the outstanding shares of each
22 class of the corporation; or

23 (iii) no shares of the corporation have been issued
24 prior to the adoption of the plan by the board of
25 directors pursuant to subsection (a).

26 (2) If a merger is effected pursuant to paragraph (1)(i)
27 or (iii), the plan shall be deemed adopted by the constituent
28 corporation when it has been adopted by the board of
29 directors pursuant to subsection (a).

30 (3) If a merger of a subsidiary corporation is effected

1 pursuant to paragraph (1)(ii), the plan shall be deemed
2 adopted by the subsidiary corporation when it has been
3 adopted by the governors of the parent association and
4 neither approval of the plan by the board of directors of the
5 subsidiary corporation nor signing of the statement of merger
6 by the subsidiary corporation shall be necessary.

7 (4) Unless otherwise required by the organic rules, a
8 plan of merger providing for the merger of a domestic
9 business corporation with or into a single indirect wholly
10 owned subsidiary (referred to in this paragraph as the
11 "subsidiary corporation") of the constituent corporation
12 shall not require the approval of the shareholders of either
13 the constituent corporation or the subsidiary corporation if
14 all of the following provisions are satisfied.

15 (i) A merger under this paragraph must satisfy the
16 following conditions:

17 (A) The constituent corporation and the
18 subsidiary corporation are the only parties to the
19 merger, other than a surviving association that is a
20 corporation created in the merger.

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

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

3 (D) Immediately following the effectiveness of
4 the merger, the articles of incorporation and bylaws
5 of the holding company are identical to the articles
6 of incorporation and bylaws of the constituent
7 corporation immediately before the effectiveness of
8 the merger, except for changes that could be made
9 without shareholder approval pursuant to section
10 1914(c).

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

15 (F) The directors of the constituent corporation
16 become or remain the directors of the holding company
17 on the effectiveness of the merger.

18 (G) The board of directors of the constituent
19 corporation has made a good faith determination that
20 the shareholders of the constituent corporation will
21 not recognize gain or loss for United States Federal
22 income tax purposes.

23 (ii) If the holding company is a registered
24 corporation, the shares of the holding company issued in
25 connection with the merger shall be deemed to have been
26 acquired at the time that the shares of the constituent
27 corporation converted in the merger were acquired.

28 (iii) As used in this paragraph only, the term
29 "holding company" means a corporation that, from its
30 incorporation until consummation of the merger governed

1 by this paragraph, was at all times a direct wholly owned
2 subsidiary of the constituent corporation and whose
3 capital stock is issued in the merger.

4 (e) Cross references.--See:

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

7 Section 2512 (relating to dissenters rights procedure).

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

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

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

14 § 322. Approval by nonprofit corporation.

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

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

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

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

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

1 at a regular or special meeting of the members.

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

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

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

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

1 § 323. Approval by general partnership.

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

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

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

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

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

14 § 324. Approval by limited partnership.

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

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

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

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

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

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

30 (2) each partnership interest outstanding immediately

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

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

8 § 325. Approval by limited liability company.

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

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

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

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

30 (3) The notice shall state that a copy of the organic

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

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

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

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

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

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

28 (i) the surviving association is a domestic limited
29 liability company and its organic rules are identical to
30 the organic rules of the limited liability company that

1 is party to the merger, except for changes that could be
2 made without action by the members; and

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

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

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

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

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

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

1 certificate of organization and operating agreement of
2 the constituent company immediately before the
3 effectiveness of the merger, except for changes that
4 could be made without member approval pursuant to Chapter
5 89 (relating to limited liability companies).

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

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

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

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

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

24 § 326. Approval by professional association.

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

30 (b) Cross reference.--See section 3304(b) (relating to

1 election of benefit corporation status).

2 § 327. Approval by business trust.

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

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

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

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

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

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

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

1 interests in the constituent trust being converted in the
2 merger.

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

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

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

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

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

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

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

30 § 328. Approval by unincorporated nonprofit association.

1 (a) General rule.--Except as provided in the governing
2 principles, a plan shall be approved in the case of a domestic
3 unincorporated nonprofit association by the affirmative vote of
4 at least a majority of the votes cast at a meeting of the
5 members.

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

8 § 329. Special treatment of interest holders.

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

21 (1) The plan:

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

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

29 (2) Under all the facts and circumstances, a court of
30 competent jurisdiction finds such special treatment is

1 undertaken in good faith, after reasonable deliberation and
2 is in the best interest of the association.

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

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

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

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

1 receiving special treatment unless the notice is accompanied by
2 either a summary of the plan that includes that information or
3 the full text of the plan.

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

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

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

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

21 § 330. Alternative means of approval of transactions.

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

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

29 SUBCHAPTER C

30 MERGER

1 Sec.

2 331. Merger authorized.

3 332. Plan of merger.

4 333. Approval of merger.

5 334. Amendment or abandonment of plan of merger.

6 335. Statement of merger; effectiveness.

7 336. Effect of merger.

8 § 331. Merger authorized.

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

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

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

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

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

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

1 (d) Exception.--A health maintenance organization may be a
2 merging association only if the surviving association is a
3 health maintenance organization.

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

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

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

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

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

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

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

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

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

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

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

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

1 (ii) the full text of its private organic rules that
2 are proposed to be in record form.

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

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

9 (8) Any other provision required by:

10 (i) the law of this Commonwealth;

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

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

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

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

19 § 333. Approval of merger.

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

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

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

1 merger becomes effective, unless, as to an interest holder
2 that does not approve the plan, both of the following apply:

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

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

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

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

23 (d) Dissenters rights.--

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

30 (2) Except as provided under section 317 (relating to

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

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

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

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

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

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

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

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

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

1 interests or securities, or any combination of the
2 foregoing, to be received by the interest holders of any
3 party to the plan.

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

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

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

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

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

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

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

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

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

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

9 § 335. Statement of merger; effectiveness.

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

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

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

19 (i) its name;

20 (ii) its jurisdiction of formation;

21 (iii) its type;

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

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

1 partnership, the address, including street and number, if
2 any, of its principal office; and

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

5 (A) its registered or similar office, if any,
6 required to be maintained by the law of its
7 jurisdiction of formation; or

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

10 (2) With respect to the surviving association:

11 (i) its name;

12 (ii) its jurisdiction of formation;

13 (iii) its type;

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

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

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

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

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

30 (3) If the statement of merger is not to be effective on

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 § 336. Effect of merger.

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

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

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

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

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

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

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

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

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

3 (iii) All its rights, privileges, immunities, powers
4 and purposes continue to be vested in it.

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

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

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

13 (8) If the surviving association is created by the
14 merger, its private organic rules are effective and the
15 following apply:

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

18 (ii) If it is a limited liability partnership or a
19 limited liability limited partnership that is not using
20 the alternative procedure under section 8201(f) (relating
21 to scope), its statement of registration is effective.

22 (iii) If it is an electing partnership, its
23 statement of election is effective.

24 (9) The interests in each merging association that are
25 to be converted or canceled as provided in the plan of merger
26 are converted or canceled, and the interest holders of those
27 interests are entitled only to the rights provided to them
28 under the plan and to any dissenters rights they have
29 pursuant to section 317 (relating to contractual dissenters
30 rights in entity transactions) or 333(d) (relating to

1 approval of merger).

2 (b) No dissolution rights.--Except as provided in the
3 organic law or organic rules of a merging association, a merger
4 under this subchapter does not give rise to any rights that an
5 interest holder, governor or third party would have on a
6 dissolution, liquidation or winding up of the merging
7 association.

8 (c) New interest holder liability.--When a merger under this
9 subchapter becomes effective, a person that becomes subject to
10 interest holder liability with respect to an association as a
11 result of the merger has interest holder liability only to the
12 extent provided by the organic law of that association and only
13 for those debts, obligations and other liabilities that arise
14 after the merger becomes effective.

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

20 (1) The merger does not discharge any interest holder
21 liability under the organic law of the domestic entity to the
22 extent the interest holder liability arose before the merger
23 became effective.

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

28 (3) The organic law of the domestic entity continues to
29 apply to the release, collection or discharge of any interest
30 holder liability preserved under paragraph (1) as if the

1 merger had not occurred.

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

7 (e) Foreign surviving association.--When a merger under this
8 subchapter becomes effective, a foreign association that is the
9 surviving association may be served with process in this
10 Commonwealth for the collection and enforcement of any debts,
11 obligations or other liabilities of a domestic entity that is a
12 merging association in accordance with applicable law.

13 (f) Registration of foreign association.--When a merger
14 under this subchapter becomes effective, the registration to do
15 business in this Commonwealth of a registered foreign
16 association that is a merging association and is not the
17 surviving association is canceled.

18 (g) Taxes.--Any taxes, interest, penalties and public
19 accounts of the Commonwealth claimed against any of the merging
20 associations that are settled, assessed or determined prior to
21 or after the merger shall be the liability of the surviving
22 association.

23 SUBCHAPTER D

24 INTEREST EXCHANGE

25 Sec.

26 341. Interest exchange authorized.

27 342. Plan of interest exchange.

28 343. Approval of interest exchange.

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

30 345. Statement of interest exchange; effectiveness.

1 346. Effect of interest exchange.

2 § 341. Interest exchange authorized.

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

6 (1) A domestic or foreign association may acquire all of
7 one or more classes or series of interests of a domestic
8 entity in exchange for interests, securities, obligations,
9 money, other property, rights to acquire interests or
10 securities or any combination of the foregoing.

11 (2) A domestic entity may acquire all of one or more
12 classes or series of interests of a foreign association in
13 exchange for interests, securities, obligations, money, other
14 property, rights to acquire interests or securities or any
15 combination of the foregoing.

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

18 (1) A foreign association may be the acquiring
19 association in an interest exchange under this subchapter
20 regardless of whether the law of its jurisdiction of
21 formation authorizes an interest exchange.

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

26 (c) Protected agreements.--If a protected agreement of a
27 domestic entity other than a business corporation contains a
28 provision that applies to a merger of the entity but does not
29 refer to an interest exchange, the provision shall apply to an
30 interest exchange in which the domestic entity is the acquired

1 association as if the interest exchange were a merger until the
2 provision is amended after {The Legislative Reference Bureau
3 shall insert here the effective date of this chapter}.

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

- 6 (1) a health maintenance organization;
- 7 (2) a hospital plan corporation; or
- 8 (3) a professional health service organization.

9 (e) Cross reference.--See section 314 (relating to
10 regulatory conditions and required notices and approvals).
11 § 342. Plan of interest exchange.

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

- 16 (1) The name and type of the acquired association.
- 17 (2) The name, jurisdiction of formation and type of the
18 acquiring association.
- 19 (3) The manner of:
 - 20 (i) exchanging the interests in the acquired
21 association to be acquired in the interest exchange into
22 interests, securities, obligations, money, other
23 property, rights to acquire interests or securities, or
24 any combination of the foregoing; and
 - 25 (ii) canceling, if desired, some or all other
26 interests in the acquired association.
- 27 (4) Any proposed amendments to:
 - 28 (i) the public organic record, if any, of the
29 acquired association; and
 - 30 (ii) the private organic rules of the acquired

1 association that are or are proposed to be in record
2 form.

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

8 (6) The other terms and conditions of the interest
9 exchange.

10 (7) Any other provision required by:

11 (i) the law of this Commonwealth; or

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

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

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

18 § 343. Approval of interest exchange.

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

23 (1) By the acquired domestic entity in accordance with
24 the applicable provisions of Subchapter B (relating to
25 approval of entity transactions).

26 (2) In record form, by each interest holder of the
27 acquired domestic entity that will have interest holder
28 liability for debts, obligations and other liabilities that
29 arise after the interest exchange becomes effective, unless,
30 as to an interest holder that does not approve the plan, both

1 of the following apply:

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

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

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

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

16 (ii) the holders of any class or series of interests
17 of the acquired association shall be entitled to vote as
18 a class on the plan if the plan effects any change in the
19 organic rules and those holders would have been entitled
20 to vote as a class if the change had been made in any
21 other manner.

22 (b) Approval by foreign associations.--An interest exchange
23 in which the acquired association is a foreign association is
24 not effective unless it is approved by the foreign association
25 in accordance with the law of its jurisdiction of formation.

26 (c) Acquiring association.--Except as provided in its
27 organic law or organic rules, the interest holders of the
28 acquiring association are not required to approve the interest
29 exchange.

30 (d) Dissenters rights.--If a shareholder of a domestic

1 business corporation that is to be the acquired association in
2 an interest exchange objects to the plan of exchange and
3 complies with Subchapter D of Chapter 15 (relating to dissenters
4 rights), the shareholder shall be entitled to dissenters rights
5 to the extent provided in that subchapter.

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

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

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

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

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

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

24 (i) The amount or kind of interests, securities,
25 obligations, money, other property, rights to acquire
26 interests or securities, or any combination of the
27 foregoing, to be received by any of the interest holders
28 of the entity under the plan.

29 (ii) The public organic record, if any, or private
30 organic rules of the entity that will be in effect

1 immediately after the interest exchange becomes
2 effective, except for changes that do not require
3 approval of the interest holders of the entity under its
4 organic law or organic rules.

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

7 (A) increase the interest holder liability to
8 which the interest holder will be subject; or

9 (B) otherwise adversely affect the interest
10 holder in any material respect.

11 (c) Approval of abandonment.--After a plan of interest
12 exchange has been approved by a domestic entity that is the
13 acquired entity and before a statement of interest exchange
14 becomes effective, the plan may be abandoned as provided in the
15 plan. Unless prohibited by the plan, a domestic entity that is
16 the acquired association may abandon the plan in the same manner
17 as the plan was approved.

18 (d) Statement of abandonment.--If a plan of interest
19 exchange is abandoned after a statement of interest exchange has
20 been delivered to the department for filing and before the
21 statement becomes effective, a statement of abandonment, signed
22 by the acquired association, must be delivered to the department
23 for filing before the time the statement of interest exchange
24 becomes effective. The statement of abandonment shall take
25 effect on filing, and the interest exchange shall be abandoned
26 and shall not become effective. The statement of abandonment
27 shall contain all of the following:

28 (1) The name of the acquired association.

29 (2) The date on which the statement of interest exchange
30 was filed by the department.

1 (3) A statement that the interest exchange has been
2 abandoned in accordance with this section.

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

6 § 345. Statement of interest exchange; effectiveness.

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

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

12 (1) With respect to the acquired association:

13 (i) its name;

14 (ii) its jurisdiction of formation;

15 (iii) its type;

16 (iv) if it is a domestic filing association or
17 domestic limited liability partnership, the address of
18 its registered office, including street and number, if
19 any, in this Commonwealth, subject to section 109
20 (relating to name of commercial registered office
21 provider in lieu of registered address); and

22 (v) if it is a domestic association that is not a
23 domestic filing association or limited liability
24 partnership, the address, including street and number, if
25 any, of its principal office.

26 (2) With respect to the acquiring association:

27 (i) its name;

28 (ii) its jurisdiction of formation;

29 (iii) its type;

30 (iv) if it is a domestic filing association,

1 domestic limited liability partnership or registered
2 foreign association, the address of its registered
3 office, including street and number, if any, in this
4 Commonwealth, subject to section 109;

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

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

11 (A) its registered or similar office, if any,
12 required to be maintained by the law of its
13 jurisdiction of formation; or

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

16 (3) If the statement of interest exchange is not to be
17 effective on filing, the later date or date and time on which
18 it will become effective.

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

22 (5) Any amendments to the public organic record of the
23 acquired association approved as part of the plan of interest
24 exchange.

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

28 (d) Filing of plan.--A plan of interest exchange that is
29 signed by the domestic entity that is the acquired association
30 and that meets all of the requirements of subsection (b) may be

1 delivered to the department for filing instead of a statement of
2 interest exchange and on filing shall have the same effect. If a
3 plan of interest exchange is delivered to the department for
4 filing as provided in this subsection, references in this
5 chapter to a statement of interest exchange shall refer to the
6 plan of interest exchange filed under this subsection.

7 (e) Effectiveness.--An interest exchange in which the
8 acquired association is a domestic entity is effective when the
9 statement of interest exchange is effective as provided in
10 section 136(c) (relating to processing of documents by
11 Department of State).

12 (f) Cross references.--See sections 134 (relating to
13 docketing statement) and 135 (relating to requirements to be met
14 by filed documents).

15 § 346. Effect of interest exchange.

16 (a) General rule.--When an interest exchange in which the
17 acquired association is a domestic entity becomes effective, all
18 of the following apply:

19 (1) Interests in the acquired association are exchanged
20 or canceled as provided in the plan of exchange, and the
21 interest holders of those interests are entitled only to the
22 rights provided to them under the plan and to any dissenters
23 rights they have pursuant to section 317 (relating to
24 contractual dissenters rights in entity transactions) or
25 343(d) (relating to approval of interest exchange).

26 (2) The acquiring association becomes the interest
27 holder of the interests in the acquired association stated in
28 the plan of interest exchange to be acquired by the acquiring
29 entity.

30 (3) The public organic record, if any, of the acquired

1 association is amended to the extent provided in the
2 statement of interest exchange.

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

7 (b) Absence of dissolution rights.--Except as provided in
8 the organic rules of the acquired association, the interest
9 exchange shall not give rise to any rights that an interest
10 holder, governor or third party would have upon a dissolution,
11 liquidation or winding up of the acquired association.

12 (c) New interest holder liability.--When an interest
13 exchange becomes effective, a person that becomes subject to
14 interest holder liability with respect to an association as a
15 result of the interest exchange has interest holder liability
16 only to the extent provided by the organic law of the
17 association and only for those debts, obligations and other
18 liabilities that arise after the interest exchange becomes
19 effective.

20 (d) Prior interest holder liability.--When an interest
21 exchange becomes effective, the interest holder liability of a
22 person that ceases to hold an interest in a domestic acquired
23 association with respect to which the person had interest holder
24 liability is as follows:

25 (1) The interest exchange does not discharge any
26 interest holder liability under the organic law of the
27 domestic acquired association to the extent the interest
28 holder liability arose before the interest exchange became
29 effective.

30 (2) The person does not have interest holder liability

1 under the organic law of the domestic acquired association
2 for any debt, obligation or other liability that arises after
3 the interest exchange becomes effective.

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

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

14 SUBCHAPTER E

15 CONVERSION

16 Sec.

17 351. Conversion authorized.

18 352. Plan of conversion.

19 353. Approval of conversion.

20 354. Amendment or abandonment of plan of conversion.

21 355. Statement of conversion; effectiveness.

22 356. Effect of conversion.

23 § 351. Conversion authorized.

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

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

29 (2) A domestic banking institution may become a domestic
30 association of a different type.

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

4 (b) Foreign converting associations.--By complying with the
5 applicable provisions of this subchapter, a foreign association
6 may become a domestic entity of a different type if the
7 conversion is authorized by the law of the jurisdiction of
8 formation of the foreign association.

9 (c) Protected governance agreements.--If a protected
10 governance agreement that is binding on a domestic entity
11 immediately before the effectiveness of a transaction under this
12 chapter contains a provision that applies to a merger of the
13 entity but does not refer to a conversion, the provision shall
14 apply to a conversion of the entity as if the conversion were a
15 merger until the provision is amended after {the Legislative
16 Reference Bureau shall insert here the effective date of this
17 chapter}.

18 (d) Exceptions.--This subchapter may not be used to
19 accomplish a transaction that has the same effect as a
20 transaction under any of the following provisions:

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

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

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

27 (4) Section 7107 (relating to termination of nonprofit
28 cooperative corporation status).

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

1 § 352. Plan of conversion.

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

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

7 (2) The name, jurisdiction of formation and type of
8 converted association.

9 (3) The manner of:

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

12 (ii) converting at least some of the interests in
13 the converting association into interests in the
14 converted association; and

15 (iii) converting the interests in the converting
16 association not canceled under subparagraph (i) or
17 converted under subparagraph (ii) into interests,
18 securities, obligations, money or property, rights to
19 acquire interests or securities or any combination of the
20 foregoing.

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

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

25 (6) Provisions, if any, providing special treatment of
26 interests in the converting association held by any interest
27 holder or group of interest holders as authorized by and
28 subject to section 329 (relating to special treatment of
29 interest holders).

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

1 (8) Any other provision required by:

2 (i) the law of this Commonwealth;

3 (ii) the law of the jurisdiction of formation of the
4 converted association if it is to be a foreign
5 association; or

6 (iii) the organic rules of the converting
7 association.

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

11 (c) Terms of interests.--The ownership, voting and other
12 rights of the interest holders in the converted association
13 shall be substantially the same as they were in the converting
14 association except:

15 (1) as provided in the plan of conversion pursuant to
16 section 329;

17 (2) as provided in the express terms of the organic
18 rules of the converted association that are in record form;
19 or

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

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

25 § 353. Approval of conversion.

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

30 (1) In the case of a domestic entity, in accordance with

1 the applicable provisions of Subchapter B (relating to
2 approval of entity transactions).

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

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

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

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

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

12 (A) a majority of the directors; and

13 (B) the shareholders entitled to cast at least
14 two-thirds of the votes which all shareholders are
15 entitled to cast thereon, and, if any class of shares
16 is entitled to vote thereon as a class, the holders
17 of at least two-thirds of the outstanding shares of
18 such class, at a meeting held upon not less than ten
19 days' notice to all shareholders.

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

26 (i) The organic rules of the converting association
27 provide in record form for the approval of a conversion
28 or a merger in which some or all of its interest holders
29 become subject to interest holder liability by the vote
30 or consent of fewer than all of the interest holders.

1 (ii) The interest holder voted for or consented in
2 record form to that provision of the organic rules or
3 became an interest holder after the adoption of that
4 provision.

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

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

11 (1) A shareholder of a domestic business corporation
12 that is to be a converting association shall be entitled to
13 dissenters rights if:

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

17 (ii) the conversion involves a change in the rights
18 of the shareholder pursuant to section 352(c)(1) or (2)
19 (relating to plan of conversion).

20 (2) A shareholder of a domestic banking institution that
21 is to be a converting association shall be entitled to the
22 rights provided in section 1222 of the act of November 30,
23 1965 (P.L.847, No.356), known as the Banking Code of 1965,
24 if:

25 (i) the shareholder objects to the plan of
26 conversion and complies with section 1222 of the Banking
27 Code of 1965; and

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

30 (3) See sections 317 (relating to contractual dissenters

1 rights in entity transactions) and 329 (relating to special
2 treatment of interest holders).

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

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

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

10 (2) By its governors or interest holders in the manner
11 provided in the plan, but an interest holder that was
12 entitled to vote on or consent to approval of the plan is
13 entitled to vote on or consent to any amendment of the plan
14 that will change any of the following:

15 (i) The amount or kind of interests, securities,
16 obligations, money, other property, rights to acquire
17 interests or securities, or any combination of the
18 foregoing, to be received by any of the interest holders
19 of the converting association under the plan.

20 (ii) The public organic record, if any, or private
21 organic rules of the converted association that will be
22 in effect immediately after the conversion becomes
23 effective, except for changes that do not require
24 approval of the interest holders of the converted
25 association under its organic law or organic rules.

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

28 (A) increase the interest holder liability to
29 which the interest holder will be subject; or

30 (B) otherwise adversely affect the interest

1 holder in any material respect.

2 (b) Approval of abandonment.--After a plan of conversion has
3 been approved by a converting association that is a domestic
4 association and before a statement of conversion becomes
5 effective, the plan may be abandoned as provided in the plan.
6 Unless prohibited by the plan, a domestic converting association
7 may abandon the plan in the same manner as the plan was
8 approved.

9 (c) Statement of abandonment.--If a plan of conversion is
10 abandoned after a statement of conversion has been delivered to
11 the department for filing and before the statement of conversion
12 becomes effective, a statement of abandonment, signed by the
13 converting association, must be delivered to the department for
14 filing before the statement of conversion becomes effective.
15 The statement of abandonment shall take effect on filing, and
16 the conversion shall be abandoned and shall not become
17 effective. The statement of abandonment shall contain all of the
18 following:

19 (1) The name of the converting association.

20 (2) The date on which the statement of conversion was
21 delivered to the department for filing.

22 (3) A statement that the conversion has been abandoned
23 in accordance with this section.

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

27 § 355. Statement of conversion; effectiveness.

28 (a) General rule.--A statement of conversion shall be signed
29 by the converting association and delivered to the department
30 for filing along with the certificates, if any, required by

1 section 139 (relating to tax clearance of certain fundamental
2 transactions).

3 (b) Contents.--A statement of conversion shall contain all
4 of the following:

5 (1) With respect to the converting association:

6 (i) its name;

7 (ii) its jurisdiction of formation;

8 (iii) its type;

9 (iv) the date on which it was first created,
10 incorporated, formed or otherwise came into existence;

11 (v) if it is a domestic filing association, the
12 statute under which it was first created, incorporated,
13 formed or otherwise came into existence;

14 (vi) if it is a domestic filing association,
15 domestic limited liability partnership or registered
16 foreign association:

17 (A) the address of its registered office,
18 including street and number, if any, in this
19 Commonwealth, subject to section 109 (relating to
20 name of commercial registered office provider in lieu
21 of registered address); or

22 (B) if it is not required to maintain a
23 registered office in this Commonwealth, the address,
24 including street and number, if any, of its principal
25 office;

26 (vii) if it is a domestic association that is not a
27 domestic filing association or limited liability
28 partnership, the address, including street and number, if
29 any, of its principal office; and

30 (viii) if it is a nonregistered foreign association,

1 the address, including street and number, if any, of:

2 (A) its registered or similar office, if any,
3 required to be maintained by the law of its
4 jurisdiction of formation; or

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

7 (2) With respect to the converted association:

8 (i) its name;

9 (ii) its jurisdiction of formation;

10 (iii) its type;

11 (iv) if it is a domestic filing association,
12 domestic limited liability partnership or registered
13 foreign association:

14 (A) the address of its registered office,
15 including street and number, if any, in this
16 Commonwealth, subject to section 109; or

17 (B) if it is not required to maintain a
18 registered office in this Commonwealth, the address,
19 including street and number, if any, of its principal
20 office;

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

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

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

30 (B) if it is not required to maintain a

1 registered or similar office, its principal office.

2 (3) If the statement of conversion is not to be
3 effective on filing, the later date or date and time on which
4 it will become effective.

5 (4) If the converting association is a domestic
6 association, a statement that the plan of conversion was
7 approved in accordance with this chapter or, if the
8 converting association is a foreign association, a statement
9 that the conversion was approved by the foreign association
10 in accordance with the law of its jurisdiction of formation.

11 (5) If the converted association is a domestic filing
12 entity or domestic banking institution, its public organic
13 record as an attachment. The public organic record does not
14 need to state the name or address of an incorporator of a
15 corporation, organizer of a limited liability company or
16 similar person with respect to any other type of entity.

17 (6) If the converted association is a domestic limited
18 liability partnership or a domestic limited liability limited
19 partnership that is not using the alternative procedure in
20 section 8201(f) (relating to scope), its statement of
21 registration as an attachment.

22 (7) If the converted association is a domestic electing
23 partnership, its statement of election as an attachment.

24 (8) If the converted association is a nonregistered
25 foreign association, one of the following:

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

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

1 (c) Other provisions.--In addition to the requirements of
2 subsection (b), a statement of conversion may contain any other
3 provision not prohibited by law.

4 (d) Domestic converted association.--If the converted
5 association is a domestic association, its public organic
6 record, if any, must satisfy the requirements of the law of this
7 Commonwealth, except that the public organic record does not
8 need to be signed and may omit any provision that is not
9 required to be included in a restatement of the public organic
10 record.

11 (e) Filing of plan.--A plan of conversion that is signed by
12 the converting association and meets all the requirements of
13 subsection (b) may be delivered to the department for filing
14 instead of a statement of conversion and on filing has the same
15 effect. If a plan of conversion is filed as provided in this
16 subsection, references in this chapter to a statement of
17 conversion refer to the plan of conversion filed under this
18 subsection.

19 (f) Effectiveness of statement of conversion.--A statement
20 of conversion is effective as provided in section 136(c)
21 (relating to processing of documents by Department of State).

22 (g) Effectiveness of conversion.--If the converted
23 association is a domestic association, the conversion is
24 effective when the statement of conversion is effective. If the
25 converted association is a foreign association, the conversion
26 is effective on the later of:

27 (1) the date and time provided by the organic law of the
28 converted association; or

29 (2) when the statement of conversion is effective.

30 (h) Cross references.--See sections 134 (relating to

1 docketing statement) and 135 (relating to requirements to be met
2 by filed documents).

3 § 356. Effect of conversion.

4 (a) General rule.--When a conversion becomes effective, all
5 of the following apply:

6 (1) The converted association is:

7 (i) Organized under and subject to the organic law
8 of the converted association.

9 (ii) The same association without interruption as
10 the converting association.

11 (iii) Deemed to have commenced its existence on the
12 date the converting association commenced its existence
13 in the jurisdiction in which the converting association
14 was first created, incorporated, formed or otherwise came
15 into existence, except for purposes of determining how
16 the converted association is taxed.

17 (2) All property of the converting association continues
18 to be vested in the converted association without reversion
19 or impairment, and the conversion shall not constitute a
20 transfer of any of that property.

21 (3) All debts, obligations and other liabilities of the
22 converting association continue as debts, obligations and
23 other liabilities of the converted association.

24 (4) Except as provided by law or the plan of conversion,
25 all of the rights, privileges, immunities, powers and
26 purposes of the converting association continue to be vested
27 without change in the converted association.

28 (5) The name of the converted association may be
29 substituted for the name of the converting association in any
30 pending action or proceeding.

1 (6) If a converted association is a filing association,
2 its public organic record is effective.

3 (7) If the converted association is a limited liability
4 partnership or a limited liability limited partnership that
5 is not using the alternative procedure in section 8201(f)
6 (relating to scope), its statement of registration is
7 effective.

8 (8) If the converted association is an electing
9 partnership, its statement of election is effective.

10 (9) Any private organic rules of the converted
11 association that are to be in record form and were approved
12 as part of the plan of conversion are effective.

13 (10) The interests in the converting association are
14 converted or canceled in accordance with and as provided in
15 the plan of conversion, and the interest holders of the
16 converting association are entitled only to the rights
17 provided to them under the plan and to any dissenters rights
18 they have pursuant to section 317 (relating to contractual
19 dissenters rights in entity transactions) or 353(c) (relating
20 to approval of conversion).

21 (11) Except as otherwise provided in the plan of
22 conversion or organic rules pursuant to section 352(c)
23 (relating to plan of conversion), the conversion does not
24 constitute and shall not be deemed to result in a change of
25 control of the converting association and the converted
26 association shall remain under the control of the same
27 persons that controlled the converting association
28 immediately before the conversion.

29 (b) No other rights.--The conversion does not give rise to
30 any rights:

1 (1) that a third party would have upon a transfer of
2 assets, merger, dissolution, liquidation or winding up of the
3 converting association, except as provided in subsection(a)
4 (11); or

5 (2) that an interest holder or governor would have upon
6 a dissolution, liquidation or winding up of the converting
7 association, except as provided in the organic law or organic
8 rules of the converting association.

9 (c) New interest holder liability.--When a conversion
10 becomes effective, a person that becomes subject to interest
11 holder liability with respect to a domestic association as a
12 result of the conversion has interest holder liability only to
13 the extent provided by the organic law of the association and
14 only for those debts, obligations and other liabilities that
15 arise after the conversion becomes effective.

16 (d) Prior interest holder liability.--When a conversion
17 becomes effective, the interest holder liability of a person
18 that ceases to hold an interest in a domestic converting
19 association with respect to which the person had interest holder
20 liability is as follows:

21 (1) The conversion does not discharge any interest
22 holder liability under the organic law of the domestic
23 converting association to the extent the interest holder
24 liability arose before the conversion became effective.

25 (2) The person does not have interest holder liability
26 under the organic law of the domestic converting association
27 for any debt, obligation or other liability that arises after
28 the conversion becomes effective.

29 (3) The organic law of the domestic converting
30 association continues to apply to the release, collection or

1 discharge of any interest holder liability preserved under
2 paragraph (1) as if the conversion had not occurred.

3 (4) The person has whatever rights of contribution from
4 any other person as are provided by other law or the organic
5 law or organic rules of the domestic converting association
6 with respect to any interest holder liability preserved under
7 paragraph (1) as if the conversion had not occurred.

8 (e) Foreign converted association.--When a conversion
9 becomes effective, a foreign association that is the converted
10 association may be served with process in this Commonwealth for
11 the collection and enforcement of any of its debts, obligations
12 and other liabilities in accordance with applicable law.

13 (f) Association not dissolved.--A conversion does not
14 require a domestic converting association to liquidate, dissolve
15 or wind up its affairs and does not constitute or cause the
16 liquidation or dissolution of the association.

17 (g) Taxes.--Any taxes, interest, penalties and public
18 accounts of the Commonwealth claimed against the converting
19 association that are settled, assessed or determined prior to or
20 after the conversion shall be the liability of the converted
21 association.

22 (h) Cross references.--See sections 416 (relating to
23 withdrawal deemed on certain transactions) and 417 (relating to
24 required withdrawal on certain transactions).

25 SUBCHAPTER F

26 DIVISION

27 Sec.

28 361. Division authorized.

29 362. Plan of division.

30 363. Approval of division.

1 364. Division without interest holder approval.

2 365. Amendment or abandonment of plan of division.

3 366. Statement of division; effectiveness.

4 367. Effect of division.

5 368. Allocation of liabilities in division.

6 § 361. Division authorized.

7 (a) Domestic entities.--Except as provided in section 318

8 (relating to excluded entities and transactions) or this

9 section, by complying with this subchapter, a domestic entity

10 may divide into:

11 (1) the dividing entity and one or more new associations

12 that are either domestic entities or foreign associations; or

13 (2) two or more new associations that are either

14 domestic entities or foreign associations.

15 (b) Foreign associations.--

16 (1) A foreign association may be created by the division

17 of a domestic entity only if the division is authorized by

18 the law of the jurisdiction of formation of the foreign

19 association.

20 (2) If the division is authorized by the law of the

21 jurisdiction of formation of the foreign association, one or

22 more of the resulting associations created in a division of a

23 foreign association may be a domestic entity.

24 (c) Exception.--A domestic banking institution that is a

25 domestic entity may be a dividing association only if all of the

26 resulting associations are domestic banking institutions.

27 (d) Cross reference.--See section 314 (relating to

28 regulatory conditions and required notices and approvals).

29 § 362. Plan of division.

30 (a) General rule.--A domestic entity may become a dividing

1 association under this chapter by approving a plan of division.
2 The plan shall be in record form and contain all of the
3 following:

4 (1) The name and type of the dividing association.

5 (2) A statement as to whether the dividing association
6 will survive the division.

7 (3) The name, jurisdiction of formation and type of each
8 new resulting association.

9 (4) The manner of:

10 (i) If the dividing association survives the
11 division and it is desired:

12 (A) Canceling some, but less than all, of the
13 interests in the dividing association.

14 (B) Converting some, but less than all, of the
15 interests in the dividing association into interests,
16 securities, obligations, money, other property,
17 rights to acquire interests or securities, or any
18 combination of the foregoing.

19 (ii) If the dividing association does not survive
20 the division, canceling or converting the interests in
21 the dividing association into interests, securities,
22 obligations, money or property, rights to acquire
23 interests or securities, or any combination of the
24 foregoing.

25 (iii) Allocating between or among the resulting
26 associations the property of the dividing association
27 that will not be owned by all of the resulting
28 associations as tenants in common pursuant to section
29 367(a) (4) (relating to effect of division) and those
30 liabilities of the dividing association as to which not

1 all of the resulting associations will be liable jointly
2 and severally pursuant to section 368(a)(3) (relating to
3 allocation of liabilities in division).

4 (iv) Distributing the interests of the new
5 associations.

6 (5) For each new association:

7 (i) its proposed public organic record if it will be
8 a filing association; and

9 (ii) the full text of its private organic rules that
10 will be in record form.

11 (6) If the dividing association will survive the
12 division, any proposed amendments to its public organic
13 record or private organic rules that are or will be in record
14 form.

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

20 (8) The other terms and conditions of the division.

21 (9) Any other provision required by:

22 (i) the law of this Commonwealth;

23 (ii) the law of the jurisdiction of formation of any
24 of the resulting associations; or

25 (iii) the organic rules of the dividing association.

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

29 (c) Description of property and liabilities.--It shall not
30 be necessary for a plan of division to list each individual

1 liability or item of property of the dividing association to be
2 allocated to a resulting association so long as the liabilities
3 and property are described in a reasonable manner.

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

6 § 363. Approval of division.

7 (a) Approval by domestic entities.--Except as provided in
8 section 364 (relating to division without interest holder
9 approval) or subsection (d), a plan of division in which the
10 dividing association is a domestic entity is not effective
11 unless it has been approved in both of the following ways:

12 (1) The plan is approved by the domestic entity in
13 accordance with the applicable provisions of Subchapter B
14 (relating to approval of entity transactions).

15 (2) The plan is approved in record form by each interest
16 holder, if any, of the domestic entity that will have
17 interest holder liability for debts, obligations and other
18 liabilities that arise after the division becomes effective,
19 unless, as to an interest holder that does not approve the
20 plan, both of the following apply:

21 (i) The organic rules of the domestic entity provide
22 in record form for the approval of a division in which
23 some or all of its interest holders become subject to
24 interest holder liability by the vote or consent of fewer
25 than all of the interest holders.

26 (ii) The interest holder voted for or consented in
27 record form to that provision of the organic rules or
28 became an interest holder after the adoption of the
29 provision.

30 (b) Approval by foreign associations.--A division of a

1 foreign association in which one or more of the resulting
2 entities is a domestic entity is not effective unless it is
3 approved by the foreign association in accordance with the law
4 of its jurisdiction of formation.

5 (c) Dissenters rights.--If a shareholder of a domestic
6 business corporation that is to be a dividing association
7 objects to the plan of division and complies with Subchapter D
8 of Chapter 15 (relating to dissenters rights), the shareholder
9 shall be entitled to dissenters rights to the extent provided in
10 that subchapter. See sections 317 (relating to contractual
11 dissenters rights in entity transactions) and 329 (relating to
12 special treatment of interest holders).

13 (d) Transitional approval requirements.--

14 (1) If a provision of the organic rules of a dividing
15 association that is a domestic entity of the type described
16 was adopted before the date indicated and requires for the
17 proposal or adoption of a plan of merger a specific number or
18 percentage of votes of governors or interest holders or other
19 special procedures, a plan of division shall not be proposed
20 or adopted by the governors or interest holders without that
21 number or percentage of votes or compliance with the other
22 special procedures:

23 (i) For a dividing association that is a domestic
24 business corporation, before October 1, 1989.

25 (ii) For a dividing association that is a general
26 partnership, before {the Legislative Reference Bureau
27 shall insert here the effective date of this chapter}.

28 (iii) For a dividing association that is a limited
29 partnership, before February 5, 1995.

30 (iv) For a dividing association that is an

1 unincorporated nonprofit association, before {the
2 Legislative Reference Bureau shall insert here the
3 effective date of this chapter}.

4 (2) If a provision of any debt securities, notes or
5 similar evidences of indebtedness for money borrowed, whether
6 secured or unsecured, indentures or other contracts that were
7 issued, incurred or executed by a dividing association that
8 is a domestic entity of the type described before the date
9 indicated, and the provision requires the consent of the
10 obligee to a merger of the dividing association or treats
11 such a merger as a default, the provision shall apply to a
12 division of the dividing association as if it were a merger:

13 (i) For a dividing association that is a domestic
14 business corporation, before August 21, 2001.

15 (ii) For a dividing association that is a general
16 partnership, before {the Legislative Reference Bureau
17 shall insert here the effective date of this section}.

18 (iii) For a dividing association that is a limited
19 partnership, before {the Legislative Reference Bureau
20 shall insert here the effective date of this section}.

21 (iv) For a dividing association that is an
22 unincorporated nonprofit association, before {the
23 Legislative Reference Bureau shall insert here the
24 effective date of this section}.

25 (3) When a provision described in paragraph (1) or (2)
26 has been amended after the applicable date, the provision
27 shall cease to be subject to the respective paragraph and
28 shall thereafter apply only in accordance with its express
29 terms.

30 § 364. Division without interest holder approval.

1 (a) General rule.--Unless otherwise restricted by its
2 organic rules, a plan of division of a domestic dividing
3 association shall not require the approval of the interest
4 holders of the dividing association if:

5 (1) The plan does not do any of the following:

6 (i) alter the jurisdiction of formation of the
7 dividing association;

8 (ii) provide for special treatment; or

9 (iii) amend in any respect the provisions of the
10 public organic record of the dividing association, except
11 amendments which may be made without the approval of the
12 interest holders.

13 (2) Either:

14 (i) the dividing association survives the division
15 and all the interests and other securities and
16 obligations, if any, of all of the new associations are
17 owned solely by the dividing association; or

18 (ii) the interests in each new association are
19 distributed as provided in subsection (b).

20 (b) Distribution of interests.--The requirements for
21 distributing interests in each new association referred to in
22 subsection (a)(2)(ii) are as follows:

23 (1) if the dividing association is not a limited
24 partnership, the dividing association has only one class of
25 interests outstanding and the interests and other securities
26 and obligations, if any, of each new association are
27 distributed pro rata to the interest holders of the dividing
28 association; or

29 (2) if the dividing association is a limited
30 partnership:

1 (i) it has only one class of general partners and
2 one class of limited partners;

3 (ii) each new association is a limited partnership;
4 and

5 (iii) all of the following apply:

6 (A) the general partner interests in each new
7 association are distributed pro rata to the general
8 partners of the dividing limited partnership;

9 (B) the limited partner interests in each new
10 association are distributed pro rata to the limited
11 partners of the dividing limited partnership; and

12 (C) no securities of obligations of any of the
13 new associations are distributed to any of the
14 interest holders of the dividing limited partnership.

15 § 365. Amendment or abandonment of plan of division.

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

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

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

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

1 of the dividing association under the plan.

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

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

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

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

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

21 (c) Statement of abandonment.--If a plan of division is
22 abandoned after a statement of division has been delivered to
23 the department for filing and before the statement becomes
24 effective, a statement of abandonment, signed by the dividing
25 association, must be delivered to the department for filing
26 before the time the statement of division becomes effective. The
27 statement of abandonment shall take effect on filing, and the
28 division shall be abandoned and shall not become effective. The
29 statement of abandonment shall contain all of the following:

30 (1) The name of the dividing association.

1 (2) The date on which the statement of division was
2 filed by the department.

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

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

8 § 366. Statement of division; effectiveness.

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

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

16 (1) With respect to the dividing association:

17 (i) its name;

18 (ii) its jurisdiction of formation;

19 (iii) its type;

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

27 (v) if it is a domestic association that is not a
28 domestic filing association or limited liability
29 partnership, the address, including street and number, if
30 any, of its principal office; and

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

3 (A) its registered or similar office, if any,
4 required to be maintained by the law of its
5 jurisdiction of formation; or

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

8 (2) A statement as to whether the dividing association
9 will survive the division.

10 (3) With respect to each resulting association created
11 by the division:

12 (i) its name;

13 (ii) its jurisdiction of formation;

14 (iii) its type;

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

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

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

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

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

1 (4) If the statement of division is not to be effective
2 on filing, the later date or date and time on which it will
3 become effective.

4 (5) A statement that the division was approved in the
5 following ways:

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

8 (ii) By a dividing association that is a foreign
9 association, in accordance with the law of its
10 jurisdiction of formation.

11 (6) If the dividing association is a domestic filing
12 entity and survives the division, any amendment to its public
13 organic record approved as part of the plan of division.

14 (7) For each resulting association created by the
15 division that is a domestic entity, its public organic
16 record, if any, as an attachment. The public organic record
17 does not need to state the name or address of an incorporator
18 of a corporation, organizer of a limited liability company or
19 similar person with respect to any other type of entity.

20 (8) For each new association that is a domestic limited
21 liability partnership or a domestic limited liability limited
22 partnership that is not using the alternative procedure in
23 section 8201(f) (relating to scope), its statement of
24 registration as an attachment.

25 (9) For each new association that is an electing
26 partnership, its statement of election as an attachment.

27 (10) The property and liabilities of the dividing
28 association that are to be allocated to each resulting
29 association, but it shall not be necessary to list in the
30 statement of division each individual liability or item of

1 property of the dividing association to be allocated to a
2 resulting association so long as the liabilities and property
3 are described in a reasonable manner.

4 (c) Other provisions.--In addition to the requirements of
5 subsection (b), a statement of division may contain any other
6 provision not prohibited by law.

7 (d) New domestic entity.--If a new association is a domestic
8 entity, its public organic record, if any, must satisfy the
9 requirements of the law of this Commonwealth, except that it
10 does not need to be signed and may omit any provision that is
11 not required to be included in a restatement of the public
12 organic record.

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

21 (f) Effectiveness of statement of division.--A statement of
22 division is effective as provided in section 136(c) (relating to
23 processing of documents by Department of State).

24 (g) Effectiveness of division.--A division takes effect as
25 follows:

26 (1) If the division is one in which all of the resulting
27 associations are domestic associations, the division is
28 effective when the statement of division is effective.

29 (2) If the division is one in which one or more of the
30 resulting associations is a foreign association, the division

1 is effective on the later of:

2 (i) the effectiveness of the statement of division;

3 or

4 (ii) when the division is effective under the law of
5 each of the jurisdictions of formation of the foreign
6 resulting associations.

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

10 § 367. Effect of division.

11 (a) General rule.--When a division becomes effective, all of
12 the following apply:

13 (1) If the dividing association is to survive the
14 division:

15 (i) It continues to exist.

16 (ii) Its public organic record, if any, is amended
17 as provided in the statement of division.

18 (iii) Its private organic rules that are to be in
19 record form, if any, are amended to the extent provided
20 in the plan of division.

21 (2) If the dividing association is not to survive the
22 division, the dividing association ceases to exist.

23 (3) With respect to each new association, all of the
24 following apply:

25 (i) It comes into existence.

26 (ii) It holds any property allocated to it as the
27 successor to the dividing association, and not by
28 transfer, whether directly or indirectly, or by operation
29 of law.

30 (iii) Its public organic record, if any, and private

1 organic rules are effective.

2 (iv) If it is a limited liability limited
3 partnership and is not using the alternative procedure in
4 section 8201(f) (relating to scope), its statement of
5 registration is effective.

6 (v) If it is an electing partnership, its statement
7 of election is effective.

8 (4) Property of the dividing association:

9 (i) That is allocated by the plan of division
10 either:

11 (A) vests in the new associations as provided in
12 the plan of division; or

13 (B) remains vested in the dividing association.

14 (ii) That is not allocated by the plan of division:

15 (A) remains vested in the dividing association,
16 if the dividing association survives the division; or

17 (B) is allocated to and vests equally in the
18 resulting associations as tenants in common, if the
19 dividing association does not survive the division.

20 (iii) Vests as provided in this paragraph without
21 transfer, reversion or impairment.

22 (5) A resulting association to which a cause of action
23 is allocated as provided in paragraph (4) may be substituted
24 or added in any pending action or proceeding to which the
25 dividing association is a party at the effective time of the
26 division.

27 (6) The liabilities of the dividing association are
28 allocated between or among the resulting associations as
29 provided in section 368 (relating to allocation of
30 liabilities in division).

1 (7) The interests in the dividing association that are
2 to be converted or canceled in the division are converted or
3 canceled, and the interest holders of those interests are
4 entitled only to the rights provided to them under the plan
5 of division and to any dissenters rights they may have
6 pursuant to section 317 (relating to contractual dissenters
7 rights in entity transactions) or 363(c) (relating to
8 approval of division).

9 (b) Dividing association not dissolved.--Except as provided
10 in the organic law or organic rules of the dividing association,
11 the division does not give rise to any rights that an interest
12 holder, governor or third party would have upon a dissolution,
13 liquidation or winding up of the dividing association.

14 (c) New interest holder liability.--When a division becomes
15 effective, a person that did not have interest holder liability
16 with respect to the dividing association and that becomes
17 subject to interest holder liability with respect to an
18 association as a result of the division has interest holder
19 liability only to the extent provided by the organic law of the
20 association and only for those liabilities that arise after the
21 division becomes effective.

22 (d) Prior interest holder liability.--When a division
23 becomes effective, the interest holder liability of a person
24 that ceases to hold an interest in the dividing association that
25 is a domestic entity with respect to which the person had
26 interest holder liability is as follows:

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

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

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

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

14 (e) Registration of registered foreign entity.--When a
15 division of a registered foreign entity in which at least one of
16 the resulting associations is a domestic entity becomes
17 effective, the registration to do business of the dividing
18 association is canceled if it does not survive the division.

19 (f) Real property.--Except with regard to the real property
20 of a dividing association that is a domestic nonprofit
21 corporation, the allocation of any fee or freehold interest or
22 leasehold having a remaining term of 30 years or more in any
23 tract or parcel of real property situate in this Commonwealth
24 owned by a dividing association, including property owned by a
25 foreign association dividing solely under the law of another
26 jurisdiction, to a new association is not effective until one of
27 the following documents is filed in the office for the recording
28 of deeds of the county, or each of them, in which the tract or
29 parcel is situated:

30 (1) A deed, lease or other instrument of confirmation

1 describing the tract or parcel.

2 (2) A duly executed duplicate original copy of the
3 statement of division.

4 (3) A copy of the statement of division certified by the
5 department.

6 (4) A declaration of acquisition stating the value of
7 real estate holdings in the county of the new association as
8 an acquired association.

9 (g) Secured collateral.--The allocation to a new association
10 of property that is collateral covered by an effective financing
11 statement shall not be effective until a new financing statement
12 naming the new association as a debtor is effective under
13 Article 9 of the Uniform Commercial Code as enacted in the
14 relevant jurisdiction.

15 (h) Vehicles.--The provisions of 75 Pa.C.S. § 1114 (relating
16 to transfer of vehicle by operation of law) shall not be
17 applicable to an allocation of ownership of any motor vehicle,
18 trailer or semitrailer to a new association under this section
19 or under a similar law of any other jurisdiction, but any such
20 allocation shall be effective only upon compliance with the
21 requirements of 75 Pa.C.S. § 1116 (relating to issuance of new
22 certificate following transfer), unless the dividing association
23 is a domestic nonprofit corporation.

24 (i) Disposition of interests.--Unless otherwise provided in
25 the plan of division, the interests and any securities or
26 obligations of each new association shall be distributed to:

27 (1) the dividing association, if it survives the
28 division; or

29 (2) the holders of the common or other residuary
30 interest of the dividing association that do not assert

1 dissenters rights, pro rata, if the dividing association does
2 not survive the division.

3 § 368. Allocation of liabilities in division.

4 (a) General rule.--Except as provided in this section, when
5 a division becomes effective, a resulting association is
6 responsible:

7 (1) Individually for the liabilities the resulting
8 association undertakes or incurs in its own name after the
9 division.

10 (2) Individually for the liabilities of the dividing
11 association that are allocated to or remain the liability of
12 that resulting association to the extent specified in the
13 plan of division.

14 (3) Jointly and severally with the other resulting
15 associations for the liabilities of the dividing association
16 that are not allocated by the plan of division.

17 (b) Joint and several liability.--If an allocation of
18 property or liabilities in a division is ineffective or voidable
19 pursuant to fraudulent transfer or similar law, both of the
20 following apply:

21 (1) The allocations of liabilities in the plan of
22 division are ineffective and the liabilities of the dividing
23 association become liabilities of all of the resulting
24 associations, jointly and severally.

25 (2) The validity and effectiveness of the division are
26 not affected thereby.

27 (c) Breach of obligation.--If a division breaches an
28 obligation of the dividing association, all of the resulting
29 associations are liable, jointly and severally, for the breach,
30 but the validity and effectiveness of the division are not

1 affected thereby.

2 (d) Application of fraudulent transfer law.--In applying the
3 law governing fraudulent transfers to a division:

4 (1) The law applies to the dividing association as
5 follows:

6 (i) If it does not survive the division, it is not
7 subject to that law.

8 (ii) If it survives the division, it is subject to
9 that law only in its capacity as a resulting association.

10 (2) The law applies to each resulting association as
11 follows:

12 (i) The association is treated as a debtor.

13 (ii) The liabilities allocated to the association
14 are treated as an obligation incurred by the debtor.

15 (iii) The association is treated as not having
16 received a reasonably equivalent value in exchange for
17 incurring the obligation.

18 (iv) The property allocated to the association is
19 treated as remaining property.

20 (e) Distribution tests not applicable.--A direct or indirect
21 allocation of property or liabilities in a division is not a
22 distribution for purposes of the organic law of the dividing
23 association or any of the resulting associations.

24 (f) Liens and other charges.--Liens, security interests and
25 other charges on the property of the dividing association are
26 not impaired by the division, notwithstanding any otherwise
27 enforceable allocation of liabilities of the dividing
28 association.

29 (g) Security agreements.--If the dividing association is
30 bound by a security agreement governed by Article 9 of the

1 Uniform Commercial Code as enacted in any jurisdiction and the
2 security agreement provides that the security interest attaches
3 to after-acquired collateral, each resulting association is
4 bound by the security agreement.

5 (h) Creditors and guarantors.--An allocation of a liability
6 does not:

7 (1) Affect the rights under other law of a creditor owed
8 payment of the liability or performance of the obligation
9 that creates the liability, except that those rights are
10 available only against an association responsible for the
11 liability or obligation under this section.

12 (2) Release or reduce the obligation of a surety or
13 guarantor of the liability or obligation.

14 (i) Regulatory approvals.--The conditions in this section
15 for freeing one or more of the resulting associations from the
16 liabilities of the dividing association and for allocating some
17 or all of the liabilities of the dividing association shall be
18 conclusively deemed to have been satisfied if the plan of
19 division has been approved by the Department of Banking and
20 Securities, the Insurance Department or the Pennsylvania Public
21 Utility Commission in a final order issued after August 21,
22 2001, that is not subject to further appeal.

23 (j) Taxes.--Any taxes, interest, penalties and public
24 accounts of the Commonwealth claimed against the dividing
25 association that are settled, assessed or determined prior to or
26 after the division shall be the liability of all of the
27 resulting associations. Upon the application of the dividing
28 association, the Department of Revenue, with the concurrence of
29 the Department of Labor and Industry, shall release one or more,
30 but less than all, of the resulting associations from liability

1 and liens for all taxes, interest, penalties and public accounts
2 of the dividing association due the Commonwealth for periods
3 prior to the effective date of the division if those departments
4 are satisfied that the public revenues will be adequately
5 secured.

6 SUBCHAPTER G

7 DOMESTICATION

8 Sec.

9 371. Domestication authorized.

10 372. Plan of domestication.

11 373. Approval of domestication.

12 374. Amendment or abandonment of plan of domestication.

13 375. Statement of domestication; effectiveness.

14 376. Effect of domestication.

15 § 371. Domestication authorized.

16 (a) Domestic entities.--Except as provided in section 318
17 (relating to excluded entities and transactions), by complying
18 with this chapter, a domestic entity may become a domestic
19 entity of the same type in a foreign jurisdiction if the
20 domestication is authorized by the law of the foreign
21 jurisdiction.

22 (b) Foreign entities.--By complying with the applicable
23 provisions of this subchapter, a foreign entity may become a
24 domestic entity of the same type in this Commonwealth if this
25 title provides for the formation of that type of entity.

26 (c) Cross reference.--See section 314 (relating to
27 regulatory conditions and required notices and approvals).

28 § 372. Plan of domestication.

29 (a) General rule.--A domestic entity may become a foreign
30 entity of the same type by approving a plan of domestication.

1 The plan shall be in record form and contain all of the
2 following:

3 (1) The name and type of the domesticating entity.

4 (2) The name and jurisdiction of formation of the
5 domesticated entity.

6 (3) The manner, if any, of canceling or converting those
7 interests in the domesticating entity, if any, that are to
8 receive special treatment as authorized by and subject to
9 section 329 (relating to special treatment of interest
10 holders).

11 (4) The proposed public organic record of the
12 domesticated entity if it is a filing entity.

13 (5) The full text of the private organic rules of the
14 domesticated entity that are proposed to be in record form.

15 (6) The other terms and conditions of the domestication.

16 (7) Any other provision required by:

17 (i) law of this Commonwealth;

18 (ii) the law of the jurisdiction of formation of the
19 foreign domesticated entity; or

20 (iii) the organic rules of the domesticating entity.

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

24 (c) Terms of interests.--Except as provided in the plan of
25 domestication pursuant to section 329, the terms of the
26 interests in the domesticated entity and the rights of the
27 interest holders in the domesticated entity shall be
28 substantially the same as the terms of the interests and the
29 rights of the interest holders in the domesticating entity,
30 except to the extent a different term or right is required by a

1 provision of the organic law of the domesticated entity that
2 cannot be varied in its organic rules.

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

5 § 373. Approval of domestication.

6 (a) Approval by domestic entities.--A plan of domestication
7 in which the domesticating entity is a domestic entity is not
8 effective unless it has been approved by the domestic entity in
9 accordance with the applicable provisions of Subchapter B
10 (relating to approval of entity transactions).

11 (b) Approval by foreign entities.--A plan of domestication
12 in which the domesticating entity is a foreign entity is not
13 effective unless it has been approved in one of the following
14 ways:

15 (1) In accordance with the law of the jurisdiction of
16 formation of the foreign entity.

17 (2) By at least a majority of the votes cast with
18 respect to approval of the domestication by all interest
19 holders of the foreign entity entitled to vote generally on a
20 merger to which the foreign entity is a party if the law of
21 the foreign entity's jurisdiction of formation does not
22 provide for a domestication of the foreign entity.

23 (c) Cross references.--See sections 317 (relating to
24 contractual dissenters rights in entity transactions) and 329
25 (relating to special treatment of interest holders).

26 § 374. Amendment or abandonment of plan of domestication.

27 (a) Approval of amendment.--A plan of domestication in which
28 the domesticating entity is a domestic entity may be amended in
29 one of the following ways:

30 (1) In the same manner as the plan was approved, if the

1 plan does not provide for the manner in which it may be
2 amended.

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

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

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

19 (iii) Any other terms or conditions of the plan, if
20 the change would adversely affect the interest holder in
21 any material respect.

22 (b) Approval of abandonment.--After a plan of domestication
23 has been approved by a domestic entity that is the domesticating
24 entity and before a statement of domestication becomes
25 effective, the plan may be abandoned as provided in the plan.
26 Unless prohibited by the plan, a domestic entity that is the
27 domesticating entity may abandon the plan in the same manner as
28 the plan was approved.

29 (c) Statement of abandonment.--If a plan of domestication is
30 abandoned after a statement of domestication has been delivered

1 to the department for filing and before the statement becomes
2 effective, a statement of abandonment, signed by the
3 domesticating entity, must be delivered to the department for
4 filing before the time the statement of domestication becomes
5 effective. The statement of abandonment shall take effect on
6 filing, and the domestication shall be abandoned and shall not
7 become effective. The statement of abandonment shall contain all
8 of the following:

9 (1) The name of the domesticating entity.

10 (2) The date on which the statement of domestication was
11 delivered to the department for filing.

12 (3) A statement that the domestication has been
13 abandoned in accordance with this section.

14 (d) Cross references.--See sections 134 (relating to
15 docketing statement) and 135 (relating to requirements to be met
16 by filed documents).

17 § 375. Statement of domestication; effectiveness.

18 (a) General rule.--A statement of domestication shall be
19 signed by the domesticating entity and delivered to the
20 department for filing along with the certificates, if any,
21 required by section 139 (relating to tax clearance of certain
22 fundamental transactions).

23 (b) Contents.--A statement of domestication shall contain
24 all of the following:

25 (1) With respect to the domesticating entity:

26 (i) its name;

27 (ii) its jurisdiction of formation;

28 (iii) its type;

29 (iv) the date on which it was first created,

30 incorporated, formed or otherwise came into existence;

1 (v) if it is a domestic filing entity, domestic
2 limited liability partnership or registered foreign
3 association, the address of its registered office,
4 including street and number, if any, in this
5 Commonwealth, subject to section 109 (relating to name of
6 commercial registered office provider in lieu of
7 registered address);

8 (vi) if it is a domestic entity that is not a
9 domestic filing entity or limited liability partnership,
10 the address, including street and number, if any, of its
11 principal office; and

12 (vii) if it is a nonregistered foreign association,
13 the address, including street and number, if any, of:

14 (A) its registered or similar office, if any,
15 required to be maintained by the law of its
16 jurisdiction of formation; or

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

19 (2) With respect to the domesticated entity:

20 (i) its name;

21 (ii) its jurisdiction of formation;

22 (iii) its type;

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

28 (v) if it is a domestic entity that is not a
29 domestic filing entity or limited liability partnership,
30 the address, including street and number, if any, of its

1 principal office; and

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

4 (A) its registered or similar office, if any,
5 required to be maintained by the law of its
6 jurisdiction of formation; or

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

9 (3) If the statement of domestication is not to be
10 effective on filing, the later date or date and time on which
11 it will become effective.

12 (4) If the domesticating entity is a domestic entity, a
13 statement that the plan of domestication was approved in
14 accordance with Subchapter B (relating to approval of entity
15 transactions) or, if the domesticating entity is a foreign
16 entity, a statement that the domestication was approved in
17 accordance with section 373(b) (relating to approval of
18 domestication).

19 (5) If the domesticated entity is a domestic filing
20 entity, its public organic record as an attachment. The
21 public organic record does not need to state the name or
22 address of an incorporator of a corporation, organizer of a
23 limited liability company or similar person with respect to
24 any other type of entity.

25 (6) If the domesticated entity is a domestic limited
26 liability partnership or a domestic limited liability limited
27 partnership that is not using the alternative procedure in
28 section 8201(f) (relating to scope), its statement of
29 registration as an attachment.

30 (7) If the domesticated entity is an electing

1 partnership, its statement of election as an attachment.

2 (8) If the domesticating entity is to be a domestic
3 entity in both this Commonwealth and the foreign
4 jurisdiction, a statement to that effect.

5 (c) Other provisions.--In addition to the requirements of
6 subsection (b), a statement of domestication may contain any
7 other provision not prohibited by law.

8 (d) Public organic record of new domestic entity.--If the
9 domesticated entity is a domestic entity, its public organic
10 record, if any, must satisfy the requirements of the law of this
11 Commonwealth, except that it does not need to be signed and may
12 omit any provision that is not required to be included in a
13 restatement of the public organic record.

14 (e) Filing of plan.--A plan of domestication that is signed
15 by a domesticating entity that is a domestic entity and meets
16 all of the requirements of subsection (b) may be delivered to
17 the department for filing instead of a statement of
18 domestication and on filing has the same effect. If a plan of
19 domestication is filed as provided in this subsection,
20 references in this chapter to a statement of domestication refer
21 to the plan of domestication filed under this subsection.

22 (f) Effectiveness of domestication.--A domestication in
23 which the domesticated entity is a domestic entity is effective
24 when the statement of domestication is effective under section
25 136(c) (relating to processing of documents by Department of
26 State). A domestication in which the domesticated entity is a
27 foreign entity becomes effective on the later of:

28 (1) the date and time provided by the organic law of the
29 domesticated entity; or

30 (2) when the statement of domestication is effective.

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

4 § 376. Effect of domestication.

5 (a) General rule.--When a domestication becomes effective,
6 all of the following apply:

7 (1) The domesticated entity is:

8 (i) organized under and subject to the organic law
9 of the domesticated entity;

10 (ii) the same entity without interruption as the
11 domesticating entity;

12 (iii) deemed to have commenced its existence on the
13 date the domesticating entity commenced its existence in
14 the jurisdiction in which the domesticating entity was
15 first created, formed, incorporated or otherwise came
16 into existence; and

17 (iv) also organized under and subject to the organic
18 law of the domesticating entity if the statement of
19 domestication includes the statement provided for in
20 section 375(b)(8) (relating to statement of
21 domestication; effectiveness).

22 (2) All property of the domesticating entity continues
23 to be vested in the domesticated entity without transfer,
24 reversion or impairment.

25 (3) All debts, obligations and other liabilities of the
26 domesticating entity continue as debts, obligations and other
27 liabilities of the domesticated entity.

28 (4) Except as provided by law or the plan of
29 domestication, all of the rights, privileges, immunities,
30 powers and purposes of the domesticating entity remain in the

1 domesticated entity.

2 (5) The name of the domesticated entity may be
3 substituted for the name of the domesticating entity in any
4 pending action or proceeding.

5 (6) If the domesticated entity is a filing entity, its
6 public organic record is effective and is binding on its
7 interest holders.

8 (7) If the domesticated entity is a domestic limited
9 liability partnership or a limited liability limited
10 partnership that is not using the alternative procedure in
11 section 8201(f) (relating to scope), its statement of
12 registration is effective.

13 (8) If the domesticated entity is an electing
14 partnership, its statement of election is effective.

15 (9) The private organic rules of the domesticated entity
16 that are to be in record form, if any, approved as part of
17 the plan of domestication are effective.

18 (10) The interest holders in the domesticating entity
19 are interest holders in the domesticated entity except to the
20 extent that an interest holder does not receive interests in
21 the domesticated entity pursuant to a provision in the plan
22 of domestication for special treatment pursuant to section
23 329 (relating to special treatment of interest holders).

24 (b) No dissolution rights.--Except as otherwise provided in
25 the organic law or organic rules of a domestic domesticating
26 entity, the domestication does not give rise to any rights that
27 an interest holder, governor or third party would have upon a
28 dissolution, liquidation or winding up of the domesticating
29 entity.

30 (c) Collection of liabilities.--When a domestication becomes

1 effective, a foreign domesticated entity may be served with
2 process in this Commonwealth for the collection and enforcement
3 of any of its debts, obligations and other liabilities in
4 accordance with applicable law.

5 (d) New interest holder liability.--When a domestication
6 becomes effective, a person that becomes subject to interest
7 holder liability with respect to a domestic association as a
8 result of the domestication has interest holder liability only
9 to the extent provided by the organic law of the association and
10 only for those debts, obligations and other liabilities that
11 arise after the domestication is effective.

12 (e) Prior interest holder liability.--When a domestication
13 becomes effective, the following rules apply:

14 (1) The domestication does not discharge any interest
15 holder liability under the organic law of a domesticating
16 domestic entity to the extent the interest holder liability
17 arose before the domestication became effective.

18 (2) A person does not have interest holder liability
19 under the organic law of a domestic domesticating entity for
20 any debt, obligation or other liability that arises after the
21 domestication becomes effective.

22 (3) The organic law of a domestic domesticating entity
23 continues to apply to the release, collection or discharge of
24 any interest holder liability preserved under paragraph (1)
25 as if the domestication had not occurred.

26 (4) A person has whatever rights of contribution from
27 any other person as are provided by other law or the organic
28 rules of a domestic domesticating entity with respect to any
29 interest holder liability preserved under paragraph (1) as if
30 the domestication had not occurred.

1 (f) Service of process.--When a domestication becomes
2 effective, a foreign domesticated entity may be served with
3 process in this Commonwealth for the collection and enforcement
4 of any of its debts, obligations and other liabilities in
5 accordance with applicable law.

6 (g) No dissolution.--A domestication does not require a
7 domestic domesticating entity to liquidate, dissolve or wind up
8 its affairs and does not constitute or cause the liquidation or
9 dissolution of the entity.

10 (h) Taxes.--Any taxes, interest, penalties and public
11 accounts of the Commonwealth claimed against the domesticating
12 entity that are settled, assessed or determined prior to or
13 after the domestication shall be the liability of the
14 domesticated entity.

15 (i) Cross references.--See sections 416 (relating to
16 withdrawal deemed on certain transactions) and 417 (relating to
17 required withdrawal on certain transactions).

18 CHAPTER 4

19 FOREIGN ASSOCIATIONS

20 Subchapter

21 A. General Provisions

22 B. Registration

23 SUBCHAPTER A

24 GENERAL PROVISIONS

25 Sec.

26 401. Application of chapter.

27 402. Governing law.

28 403. Activities not constituting doing business.

29 § 401. Application of chapter.

30 (a) General rule.--Except as otherwise provided in this

1 section or in subsequent provisions of this chapter, this
2 chapter shall apply to all foreign associations.

3 (b) Application to foreign banking institutions.--The words
4 "foreign filing association" or "foreign association" in this
5 chapter include an association that, if a domestic association,
6 would be a banking institution or credit union. The term does
7 not include an interstate bank as defined in section 102 of the
8 act of November 30, 1965 (P.L.847, No.356), known as the Banking
9 Code of 1965.

10 (c) Domestic Federal financial association exclusion.--
11 Except as permitted by act of Congress, this chapter shall not
12 apply to:

13 (1) Any of the following institutions or similar
14 federally chartered institutions engaged in this Commonwealth
15 in activities similar to those conducted by banking
16 institutions or credit unions:

17 (i) National banking associations organized under
18 The National Bank Act (13 Stat. 99, 12 U.S.C. § 1 et
19 seq.).

20 (ii) Federal savings and loan associations and
21 Federal mutual savings banks organized under the Home
22 Owners' Loan Act (48 Stat. 128, 12 U.S.C. § 1461 et
23 seq.).

24 (iii) Federal credit unions organized under the
25 Federal Credit Union Act (48 Stat. 1216, 12 U.S.C. § 1751
26 et seq.).

27 (2) Any other Federal association intended by the
28 Congress to be treated for State law purposes as a domestic
29 association of this Commonwealth.

30 (d) Foreign insurance corporations.--A foreign insurance

1 corporation shall be subject to this chapter, except as provided
2 in section 402(e) (relating to governing law) or 411(g)
3 (relating to registration to do business in this Commonwealth).

4 (e) Government entities.--This chapter shall apply to and
5 the words "association" and "foreign association" shall include
6 a government or other sovereign, other than the Commonwealth or
7 any of its political subdivisions, and any governmental
8 corporation, agency or other entity thereof.

9 (f) Admitted foreign fraternal benefit society exclusion.--
10 This chapter shall not apply to any foreign corporation not-for-
11 profit licensed to transact business in this Commonwealth under
12 section 2455 of the act of May 17, 1921 (P.L.682, No.284), known
13 as The Insurance Company Law of 1921.

14 § 402. Governing law.

15 (a) General rule.--The law of the jurisdiction of formation
16 of a foreign association governs the following:

17 (1) The internal affairs of the association.

18 (2) The liability that a person has as an interest
19 holder or governor for a debt, obligation or other liability
20 of the association.

21 (3) The liability of a series or protected cell of a
22 foreign association.

23 (b) Effect of differences in law.--A foreign association is
24 not precluded from registering to do business in this
25 Commonwealth because of any difference between the law of the
26 jurisdiction of formation of the foreign association and the law
27 of this Commonwealth.

28 (c) Limitations on domestic associations applicable.--
29 Registration of a foreign association to do business in this
30 Commonwealth does not authorize the foreign association to

1 engage in any activities and affairs or exercise any power that
2 a domestic association of the same type may not engage in or
3 exercise in this Commonwealth.

4 (d) Equal rights and privileges of registered foreign
5 associations.--Except as otherwise provided by law, a registered
6 foreign association, so long as its registration to do business
7 is not terminated or canceled, shall enjoy the same rights and
8 privileges as a domestic entity and shall be subject to the same
9 liabilities, restrictions, duties and penalties now in force or
10 hereafter imposed on domestic entities, to the same extent as if
11 it had been formed under this title. A foreign insurance
12 corporation shall be deemed a registered foreign association
13 except as provided in subsection (e).

14 (e) Foreign insurance corporations.--A foreign insurance
15 corporation shall, insofar as it is engaged in the business of
16 writing insurance or reinsurance as principal, be subject to the
17 law of this Commonwealth regulating the conduct of the business
18 of insurance by a foreign insurance corporation in lieu of the
19 provisions of subsection (d) regarding its rights, privileges,
20 liabilities, restrictions and duties and the penalties to which
21 it may be subject.

22 (f) Agricultural lands.--Interests in agricultural land
23 shall be subject to the restrictions of, and escheatable as
24 provided by, the act of April 6, 1980 (P.L.102, No.39), referred
25 to as the Agricultural Land Acquisition by Aliens Law.

26 § 403. Activities not constituting doing business.

27 (a) General rule.--Activities of a foreign filing
28 association or foreign limited liability partnership that do not
29 constitute doing business in this Commonwealth under this
30 chapter shall include the following:

1 (1) Maintaining, defending, mediating, arbitrating or
2 settling an action or proceeding.

3 (2) Carrying on any activity concerning its internal
4 affairs, including holding meetings of its interest holders
5 or governors.

6 (3) Maintaining accounts in financial institutions.

7 (4) Maintaining offices or agencies for the transfer,
8 exchange and registration of securities of the association or
9 maintaining trustees or depositories with respect to the
10 securities.

11 (5) Selling through independent contractors.

12 (6) Soliciting or obtaining orders by any means if the
13 orders require acceptance outside of this Commonwealth before
14 the orders become contracts.

15 (7) Creating or acquiring indebtedness, mortgages or
16 security interests in property.

17 (8) Securing or collecting debts or enforcing mortgages
18 or security interests in property securing the debts and
19 holding, protecting or maintaining property so acquired.

20 (9) Conducting an isolated transaction that is not in
21 the course of similar transactions.

22 (10) Owning, without more, property.

23 (11) Doing business in interstate or foreign commerce.

24 (b) Participation in other associations.--Being an interest
25 holder or governor of a foreign association that does business
26 in this Commonwealth shall not by itself constitute doing
27 business in this Commonwealth.

28 (c) Applicability.--This section shall not apply in
29 determining the contacts or activities that may subject a
30 foreign filing association or foreign limited liability

1 partnership to service of process, taxation or regulation under
2 law of this Commonwealth other than this title.

3 SUBCHAPTER B

4 REGISTRATION

5 Sec.

6 411. Registration to do business in this Commonwealth.

7 412. Foreign registration statement.

8 413. Amendment of foreign registration statement.

9 414. Noncomplying name of foreign association.

10 415. Voluntary withdrawal of registration.

11 416. Withdrawal deemed on certain transactions.

12 417. Required withdrawal on certain transactions.

13 418. Transfer of registration.

14 419. Termination of registration.

15 § 411. Registration to do business in this Commonwealth.

16 (a) Registration required.--Except as provided in section
17 401 (relating to application of chapter) or subsection (g), a
18 foreign filing association or foreign limited liability
19 partnership may not do business in this Commonwealth until it
20 registers with the department under this chapter.

21 (b) Penalty for failure to register.--A foreign filing
22 association or foreign limited liability partnership doing
23 business in this Commonwealth may not maintain an action or
24 proceeding in this Commonwealth unless it is registered to do
25 business under this chapter.

26 (c) Contracts and acts not impaired by failure to
27 register.--The failure of a foreign filing association or
28 foreign limited liability partnership to register to do business
29 in this Commonwealth does not impair the validity of a contract
30 or act of the foreign filing association or foreign limited

1 liability partnership or preclude it from defending an action or
2 proceeding in this Commonwealth.

3 (d) Limitations on liability preserved.--A limitation on the
4 liability of an interest holder or governor of a foreign filing
5 association or of a partner of a foreign limited liability
6 partnership is not waived solely because the foreign filing
7 association or foreign limited liability partnership does
8 business in this Commonwealth without registering.

9 (e) Governing law not affected.--Section 402 (relating to
10 governing law) applies even if a foreign association fails to
11 register under this chapter.

12 (f) Registered office.--Subject to section 109 (relating to
13 name of commercial registered office provider in lieu of
14 registered address), every registered foreign association shall
15 have, and continuously maintain, in this Commonwealth a
16 registered office, which may but need not be the same as its
17 place of business in this Commonwealth.

18 (g) Foreign insurance corporations.--A foreign insurance
19 corporation is not required to register under this chapter.
20 § 412. Foreign registration statement.

21 (a) General rule.--To register to do business in this
22 Commonwealth, a foreign filing association or foreign limited
23 liability partnership must deliver a foreign registration
24 statement to the department for filing. The statement must be
25 signed by the association and state all of the following:

26 (1) Both:

27 (i) The name of the foreign filing association or
28 foreign limited liability partnership.

29 (ii) If the name does not comply with section 202
30 (relating to requirements for names generally), an

1 alternate name adopted pursuant to section 414(a)
2 (relating to noncomplying name of foreign association).

3 (2) The type of association and, if it is a foreign
4 limited partnership, whether it is a foreign limited
5 liability limited partnership.

6 (3) The association's jurisdiction of formation.

7 (4) The street and mailing addresses of the
8 association's principal office and, if the law of the
9 association's jurisdiction of formation requires the
10 association to maintain an office in that jurisdiction, the
11 street and mailing addresses of the office.

12 (5) Subject to section 109 (relating to name of
13 commercial registered office provider in lieu of registered
14 address), the address, including street and number, if any,
15 of its registered office in this Commonwealth.

16 (6) If the association may have one or more series, a
17 statement to that effect.

18 (b) Qualification or registration under former statutes.--
19 The effect of a foreign association qualifying or registering to
20 do business under prior provisions of law shall be as follows:

21 (1) With respect to corporations for profit, the
22 following apply:

23 (i) If a foreign corporation for profit was admitted
24 to do business in this Commonwealth by the filing of a
25 power of attorney and statement under the former act of
26 June 8, 1911 (P.L.710, No.283), entitled "An act to
27 regulate the doing of business in this Commonwealth by
28 foreign corporations; the registration thereof and
29 service of process thereon; and providing punishment and
30 penalties for the violation of its provisions; and

1 repealing previous legislation on the subject," on {the
2 Legislative Reference Bureau shall insert here the
3 effective date of this chapter}, the power of attorney
4 and statement shall be deemed a filed registration
5 statement under this chapter. The corporation shall
6 include in its first amended registration statement under
7 this chapter the information required by this chapter to
8 be set forth in a registration statement.

9 (ii) A certificate of authority issued under the
10 former provisions of the act of May 5, 1933 (P.L.364,
11 No.106), known as the Business Corporation Law of 1933,
12 or Subpart B of Part II (relating to business
13 corporations) that is in effect on {the Legislative
14 Reference Bureau shall insert here the effective date of
15 this chapter} shall be deemed to be a registration
16 statement under this chapter and shall be deemed not to
17 contain any reference to the kind of business that the
18 corporation proposes to do in this Commonwealth.

19 (iii) A certificate of authority issued under the
20 former provisions of Subchapter B of Chapter 41 (relating
21 to qualification) that is in effect on {the Legislative
22 Reference Bureau shall insert here the effective date of
23 this chapter} shall be deemed to be a registration
24 statement under this chapter.

25 (2) With respect to corporations not-for-profit, the
26 following apply:

27 (i) If a foreign corporation not-for-profit was
28 admitted to do business in this Commonwealth by the
29 filing of a power of attorney and statement under the
30 former act of June 8, 1911 (P.L.710, No.283), on {the

1 Legislative Reference Bureau shall insert here the
2 effective date of this chapter}, the power of attorney
3 and statement shall be deemed a filed registration
4 statement under this chapter. The corporation shall
5 include in its first amended registration statement under
6 this chapter the information required by this chapter to
7 be set forth in a registration statement.

8 (ii) A certificate of authority issued under the
9 former provisions of the act of May 5, 1933 (P.L.289,
10 No.105), known as the Nonprofit Corporation Law of 1933,
11 or the former provisions of Article B of Part III known
12 as the Nonprofit Corporation Law of 1972, as added by the
13 act of November 15, 1972 (P.L.1063, No.271), that is in
14 effect on {the Legislative Reference Bureau shall insert
15 here the effective date of this chapter} shall be deemed
16 to be a registration statement under this chapter and
17 shall be deemed not to contain any reference to the kind
18 of business that the corporation proposes to do in this
19 Commonwealth.

20 (iii) A certificate of authority issued under the
21 former provisions of Subchapter B of Chapter 61 (relating
22 to qualification) that is in effect on {the Legislative
23 Reference Bureau shall insert here the effective date of
24 this chapter} shall be deemed to be a registration
25 statement under this chapter.

26 (3) With respect to limited partnerships, the following
27 apply:

28 (i) An application for registration filed under the
29 former provisions of 59 Pa.C.S. § 563 (relating to
30 registration) that is in effect on {the Legislative

1 Reference Bureau shall insert here the effective date of
2 this chapter} shall be deemed to be a registration
3 statement under this chapter and shall be deemed not to
4 contain any reference to:

5 (A) the general character of the business the
6 limited partnership proposes to transact in this
7 Commonwealth; or

8 (B) the names and addresses of the limited
9 partners.

10 (ii) An application for registration filed under the
11 former provisions of section 8582 (relating to
12 registration) that is in effect on {the Legislative
13 Reference Bureau shall insert here the effective date of
14 this chapter} shall be deemed to be a registration
15 statement under this chapter and shall be deemed not to
16 contain:

17 (A) any reference to the address of the office
18 at which is kept a list of the names and addresses of
19 the limited partners and their capital contributions;
20 or

21 (B) an undertaking to keep those records until
22 the registration of the limited partnership in this
23 Commonwealth is canceled or withdrawn.

24 (4) An application for registration filed by a limited
25 liability company under the former provisions of section 8981
26 (relating to foreign limited liability companies) that is in
27 effect on {the Legislative Reference Bureau shall insert here
28 the effective date of this chapter} shall be deemed to be a
29 registration statement under this chapter.

30 (5) A certificate of authority issued to a business

1 trust under the former provisions of section 9507 (relating
2 to foreign business trusts) that is in effect on {the
3 Legislative Reference Bureau shall insert here the effective
4 date of this chapter} shall be deemed to be a registration
5 statement under this chapter.

6 (c) Cross references.--See:

7 Section 134 (relating to docketing statement).

8 Section 135 (relating to requirements to be met by filed
9 documents).

10 Section 4124 (relating to advertisement of registration
11 to do business).

12 Section 6124 (relating to advertisement of registration
13 to do business).

14 § 413. Amendment of foreign registration statement.

15 (a) General rule.--A registered foreign association shall
16 deliver to the department for filing an amendment to its foreign
17 registration statement if there is a change in any of the
18 following:

19 (1) The name of the association.

20 (2) The type of association, including, if it is a
21 foreign limited partnership, whether the association became
22 or ceased to be a foreign limited liability limited
23 partnership.

24 (3) The association's jurisdiction of formation.

25 (4) An address required by section 412(a)(4) (relating
26 to foreign registration statement).

27 (5) Its registered office.

28 (6) The authority of the association to have one or more
29 series.

30 (b) Contents of amendment.--An amendment of a foreign

1 registration statement shall be signed by the registered foreign
2 association and state all of the following:

3 (1) The name under which the registered foreign
4 association is registered to do business in this
5 Commonwealth.

6 (2) Subject to section 109 (relating to name of
7 commercial registered office provider in lieu of registered
8 address), the address, including street and number, if any,
9 of its registered office in this Commonwealth.

10 (3) If the amendment is not to be effective on filing,
11 the later date or date and time on which it will become
12 effective.

13 (4) The information that is to be changed.

14 (c) Cross references.--See sections 134 (relating to
15 docketing statement) and 135 (relating to requirements to be met
16 by filed documents).

17 § 414. Noncomplying name of foreign association.

18 (a) General rule.--A foreign filing association or foreign
19 limited liability partnership whose name does not comply with
20 Subchapter A of Chapter 2 (relating to names) may not register
21 to do business in this Commonwealth until it adopts, for the
22 purpose of doing business in this Commonwealth, an alternate
23 name that complies with Subchapter A of Chapter 2. A foreign
24 association that registers under an alternate name under this
25 subsection is not required to comply with 54 Pa.C.S. Ch. 3
26 (relating to fictitious names) with respect to the alternate
27 name. After registering to do business in this Commonwealth
28 under an alternate name, a foreign association shall do business
29 in this Commonwealth under any of the following:

30 (1) The alternate name.

1 (2) Its proper name under the law of its jurisdiction of
2 formation, with the addition of the name of its jurisdiction
3 of formation.

4 (3) A name the foreign association is authorized to use
5 under 54 Pa.C.S. Ch. 3.

6 (b) Change of name.--If a registered foreign association
7 changes its name to one that does not comply with Subchapter A
8 of Chapter 2, it may not do business in this Commonwealth until
9 it complies with subsection (a) by amending its registration to
10 adopt an alternate name that complies with Subchapter A of
11 Chapter 2.

12 § 415. Voluntary withdrawal of registration.

13 (a) General rule.--A registered foreign association may
14 withdraw its registration by delivering a statement of
15 withdrawal to the department for filing. The statement of
16 withdrawal shall be signed by the association and state all of
17 the following:

18 (1) The name of the association and its jurisdiction of
19 formation.

20 (2) Subject to section 109 (relating to name of
21 commercial registered office provider in lieu of registered
22 address), the address, including street and number, if any,
23 of its registered office in this Commonwealth.

24 (3) That the association is not doing business in this
25 Commonwealth.

26 (4) That the association withdraws its registration to
27 do business in this Commonwealth.

28 (b) Filing.--The statement of withdrawal and the
29 certificates required by section 139 (relating to tax clearance
30 of certain fundamental transactions) shall be delivered to the

1 department for filing and shall take effect on filing.

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

5 § 416. Withdrawal deemed on certain transactions.

6 (a) Conversion.--A registered foreign association that
7 converts to any type of domestic filing entity or to a domestic
8 limited liability partnership shall be deemed to have withdrawn
9 its registration on the effective date of the conversion.

10 (b) Domestication.--A registered foreign association that
11 domesticates in this Commonwealth as a domestic filing entity or
12 a domestic limited liability partnership shall be deemed to have
13 withdrawn its registration on the effective date of the
14 domestication.

15 § 417. Required withdrawal on certain transactions.

16 (a) Application of section.--This section shall apply to a
17 registered foreign association that has been:

18 (1) dissolved and completed winding up;

19 (2) converted to a domestic or foreign nonfiling
20 association other than a limited liability partnership; or

21 (3) the domesticating entity in a domestication in which
22 the domesticated entity is a domestic or foreign nonfiling
23 association other than a limited liability partnership.

24 (b) Statement of withdrawal.--A registered foreign
25 association described in subsection (a) shall deliver a
26 statement of withdrawal and the certificates required by section
27 139 (relating to tax clearance of certain fundamental
28 transactions) to the department for filing. The statement shall
29 be signed by the dissolved or converted association and state as
30 follows:

1 (1) In the case of a foreign association that has
2 completed winding up, all of the following:

3 (i) The name under which the association is
4 registered to do business in this Commonwealth and its
5 jurisdiction of formation.

6 (ii) That the association withdraws its registration
7 to do business in this Commonwealth.

8 (2) In the case of a foreign association that has
9 converted to a domestic or foreign nonfiling association
10 other than a limited liability partnership, all of the
11 following:

12 (i) The name under which the association is
13 registered to do business in this Commonwealth and its
14 jurisdiction of formation.

15 (ii) The type of nonfiling association to which the
16 association has converted and its jurisdiction of
17 formation.

18 (iii) That the association withdraws its
19 registration to do business in this Commonwealth.

20 (3) In the case of a foreign association that has
21 domesticated as a domestic or foreign nonfiling association
22 other than a limited liability partnership in a jurisdiction
23 other than this Commonwealth, all of the following:

24 (i) The name under which the association is
25 registered to do business in this Commonwealth and its
26 jurisdiction of formation.

27 (ii) The jurisdiction of formation of the
28 domesticated association.

29 (iii) That the association withdraws its
30 registration to do business in this Commonwealth.

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

4 § 418. Transfer of registration.

5 (a) General rule.--If a registered foreign association
6 merges into a nonregistered foreign association or converts to a
7 foreign association required to register with the department to
8 do business in this Commonwealth, the association shall deliver
9 to the department for filing an application for transfer of
10 registration. The application shall be signed by the surviving
11 or converted association and state all of the following:

12 (1) The name of the association before the merger or
13 conversion.

14 (2) The type of association it was before the merger or
15 conversion.

16 (3) The name of the applicant association and, if the
17 name does not comply with section 202 (relating to
18 requirements for names generally), an alternate name adopted
19 in accordance with section 414(a) (relating to noncomplying
20 name of foreign association).

21 (4) The type of association of the applicant association
22 and its jurisdiction of formation.

23 (5) If different than the information for the foreign
24 association before the merger or conversion, all of the
25 following information regarding the applicant association:

26 (i) The street and mailing addresses of the
27 principal office of the association and, if the law of
28 the association's jurisdiction of formation requires it
29 to maintain an office in that jurisdiction, the street
30 and mailing addresses of that office.

1 (ii) Subject to section 109 (relating to name of
2 commercial registered office provider in lieu of
3 registered address), the address of its registered office
4 in this Commonwealth.

5 (b) Effect of application.--When an application for transfer
6 of registration takes effect, the registration of the registered
7 foreign association to do business in this Commonwealth is
8 transferred without interruption to the association into which
9 it has merged or to which it has been converted.

10 (c) Cross references.--See sections 134 (relating to
11 docketing statement) and 135 (relating to requirements to be met
12 by filed documents).

13 § 419. Termination of registration.

14 (a) General rule.--The department may terminate the
15 registration of a registered foreign association in the manner
16 provided in subsections (b) and (c) if the department finds that
17 the association:

18 (1) has not amended its registration when required by
19 section 413 (relating to amendment of foreign registration
20 statement); or

21 (2) has been administratively, voluntarily or
22 involuntarily dissolved under the law of its jurisdiction of
23 formation.

24 (b) Notice by department.--The department may terminate the
25 registration of a registered foreign association by taking both
26 of the following actions:

27 (1) Filing a notice of termination or noting the
28 termination in the records of the department.

29 (2) Delivering a copy of the notice or the information
30 in the notation to the association's registered office or, if

1 the association does not have a registered office, to the
2 association's principal office.

3 (c) Contents.--The notice shall state, or the information in
4 the notation under subsection (b) shall include, both of the
5 following:

6 (1) The effective date of the termination, which shall
7 be no less than 60 days after the date the department
8 delivers the copy.

9 (2) The grounds for termination under subsection (a).

10 (d) Effectiveness or cure.--The registration of a registered
11 foreign association to do business in this Commonwealth shall
12 cease on the effective date of the notice of termination or
13 notation under subsection (b), unless before that date the
14 association cures each ground for termination stated in the
15 notice or notation. If the association cures each ground, the
16 department shall file a record stating as such.

17 Section 10. Section 1103(a) introductory paragraph and the
18 definitions of "articles," "dissenters rights," "foreign
19 business corporation," "nonqualified foreign business
20 corporation," "plan," "qualified foreign business corporation"
21 and "registered corporation" of Title 15 are amended to read:
22 § 1103. Definitions.

23 (a) General definitions.--Subject to additional definitions
24 contained in subsequent provisions of this subpart that are
25 applicable to specific provisions of this subpart, the following
26 words and phrases when used in Part I (relating to preliminary
27 provisions) or in this subpart shall have the meanings given to
28 them in this section unless the context clearly indicates
29 otherwise:

30 * * *

1 "Articles." The original articles of incorporation, all
2 amendments thereof and any other articles, statements or
3 certificates permitted or required to be filed in the Department
4 of State by sections 108 (relating to change in location or
5 status of registered office provided by agent) and 138 (relating
6 to statement of correction), Chapter 3 (relating to entity
7 transactions) or this subpart and including what have heretofore
8 been designated by law as certificates of incorporation or
9 charters. If an amendment of the articles or [articles of merger
10 or division made in the manner permitted by this subpart] a
11 statement filed under Chapter 3 restates articles in their
12 entirety [or if there are articles of consolidation, conversion
13 or domestication], thenceforth the "articles" shall not include
14 any prior documents and any certificate issued by the department
15 with respect thereto shall so state.

16 * * *

17 ["Dissenters rights." The rights and remedies provided by
18 Subchapter D of Chapter 15 (relating to dissenters rights).]

19 * * *

20 "Foreign business corporation." A foreign corporation for
21 profit subject to Chapter [41] 4 (relating to foreign [business
22 corporations] associations), whether or not required to qualify
23 thereunder.

24 * * *

25 ["Nonqualified foreign business corporation." A foreign
26 business corporation that is not a qualified foreign business
27 corporation as defined in this section.]

28 * * *

29 ["Plan." A plan of reclassification, merger, consolidation,
30 exchange, asset transfer, division or conversion.]

1 * * *

2 ["Qualified foreign business corporation." A foreign
3 business corporation that is:

4 (1) authorized under Chapter 41 (relating to foreign
5 business corporations) to do business in this Commonwealth;

6 or

7 (2) a foreign insurance corporation.]

8 * * *

9 ["Registered corporation." A corporation defined in section
10 2502 (relating to registered corporation status).]

11 * * *

12 Section 11. Sections 1105 and 1106 of Title 15 are amended
13 to read:

14 § 1105. Restriction on equitable relief.

15 A shareholder of a business corporation shall not have any
16 right to obtain, in the absence of fraud or fundamental
17 unfairness, an injunction against any proposed plan or amendment
18 of articles authorized under any provision of this [subpart]
19 title, nor any right to claim the right to valuation and payment
20 of the fair value of his shares because of the plan or
21 amendment, except that he may dissent and claim such payment if
22 and to the extent provided in Subchapter D of Chapter 15
23 (relating to dissenters rights) where this [subpart] title
24 expressly provides that dissenting shareholders shall have the
25 rights and remedies provided in that subchapter. Absent fraud or
26 fundamental unfairness, the rights and remedies so provided
27 shall be exclusive. Structuring a plan or transaction for the
28 purpose or with the effect of eliminating or avoiding the
29 application of dissenters rights is not fraud or fundamental
30 unfairness within the meaning of this section.

1 § 1106. Uniform application of subpart.

2 (a) General rule.--Except as provided in subsection (b),
3 Part I (relating to preliminary provisions) and this subpart
4 [and its amendments] are intended to provide uniform rules for
5 the government and regulation of the affairs of business
6 corporations and of their officers, directors and shareholders
7 regardless of the date or manner of incorporation or
8 qualification, or of the issuance of any shares thereof.

9 (b) Exceptions.--

10 (1) Unless expressly provided otherwise in any amendment
11 to this subpart, the amendment shall take effect only
12 prospectively.

13 (2) An existing corporation lawfully using a name or, as
14 part of its name, a word that could not be used as or
15 included in the name of a corporation subsequently
16 incorporated or qualified under this subpart may continue to
17 use the name or word as part of its name if the use or
18 inclusion of the word or name was lawful when first adopted
19 by the corporation in this Commonwealth.

20 (3) Subsection (a) shall not adversely affect the rights
21 specifically provided for or saved in this [subpart] title.

22 See:

23 The provisions of section 341(c) (relating to interest
24 exchange authorized).

25 The provisions of section 351(c) (relating to conversion
26 authorized).

27 The transitional approval requirements set forth in
28 section 363(d) (relating to approval of division).

29 The provisions of section 1524(e) (relating to
30 transitional provision).

1 The provisions of section 1554(c) (relating to
2 transitional provision).

3 The cumulative voting rights set forth in section 1758(c)
4 (2) (relating to cumulative voting).

5 [The special voting requirements specified in section
6 1931(h) (relating to special requirements).

7 The provisions of section 1952(g) and (h) (relating to
8 proposal and adoption of plan of division).]

9 The provisions of section 2301(d) (relating to
10 transitional provisions).

11 The provisions of section 2541(a) (2) and (3) and (c)
12 (relating to application and effect of subchapter).

13 The provisions of section 2543(b) (1) and (2) (relating to
14 exceptions generally).

15 The provisions of section 2551(b) (3) (i), (5) and (6)
16 (relating to exceptions).

17 The provisions of section 2553(b) (2) (relating to
18 exception).

19 (4) Except as otherwise expressly provided in the
20 articles, a domestic corporation for profit that, on
21 September 30, 1989, was not subject to the Business
22 Corporation Law of 1933 and that thereafter becomes subject
23 to this subpart by operation of law shall be deemed to have
24 in effect articles that provide that the following provisions
25 of this subpart shall not be applicable to the corporation:

26 (i) Section 1726(a) (1) (relating to removal by the
27 shareholders) insofar as it provides a statutory right on
28 the part of shareholders to remove directors from office
29 without assigning any cause.

30 (ii) Section 1755(b) (2) (relating to special

1 meetings).

2 (iii) Section 1912(a)(2) (relating to proposal of
3 amendments).

4 Section 12. Sections 1303, 1304 and 1305 of Title 15 are
5 repealed:

6 [§ 1303. Corporate name.

7 (a) General rule.--The corporate name may be in any
8 language, but must be expressed in Roman letters or characters
9 or Arabic or Roman numerals, and shall contain:

10 (1) the word "corporation," "company," "incorporated" or
11 "limited" or an abbreviation of any of them;

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

13 (3) words or abbreviations of like import in languages
14 other than English.

15 (b) Duplicate use of names.--The corporate name shall be
16 distinguishable upon the records of the department from:

17 (1) The name of any other domestic corporation for
18 profit or not-for-profit which is either in existence or for
19 which articles of incorporation have been filed but have not
20 yet become effective, or of any foreign corporation for
21 profit or not-for-profit which is either authorized to do
22 business in this Commonwealth or for which an application for
23 a certificate of authority has been filed but has not yet
24 become effective, or the name of any association registered
25 at any time under 54 Pa.C.S. Ch. 5 (relating to corporate and
26 other association names), unless:

27 (i) the other association:

28 (A) has stated that it is about to change its
29 name, or to cease to do business, or is being wound
30 up, or is a foreign association about to withdraw

1 from doing business in this Commonwealth, and the
2 statement and a written consent to the adoption of
3 the name is filed in the Department of State;

4 (B) has filed with the Department of Revenue a
5 certificate of out of existence, or has failed for a
6 period of three successive years to file with the
7 Department of Revenue a report or return required by
8 law and the fact of such failure has been certified
9 by the Department of Revenue to the Department of
10 State;

11 (C) has abandoned its name under the laws of its
12 jurisdiction of incorporation, by amendment, merger,
13 consolidation, division, expiration, dissolution or
14 otherwise, without its name being adopted by a
15 successor in a merger, consolidation, division or
16 otherwise, and an official record of that fact,
17 certified as provided by 42 Pa.C.S. § 5328 (relating
18 to proof of official records), is presented by any
19 person to the department; or

20 (D) has had the registration of its name under
21 54 Pa.C.S. Ch. 5 terminated.

22 (2) A name the exclusive right to which is at the
23 time reserved by any other person whatsoever in the
24 manner provided by statute. A name shall be rendered
25 unavailable for corporate use by reason of the filing in
26 the Department of State of any assumed or fictitious name
27 required by 54 Pa.C.S. Ch. 3 (relating to fictitious
28 names) to be filed in the department only if and to the
29 extent expressly so provided in that chapter.

30 (c) Required approvals or conditions.--

1 (1) The corporate name shall not imply that the
2 corporation is:

3 (i) A governmental agency of the Commonwealth or of
4 the United States.

5 (ii) A bank, bank and trust company, savings bank,
6 private bank or trust company, as defined in the act of
7 November 30, 1965 (P.L.847, No.356), known as the Banking
8 Code of 1965, unless the corporation or proposed
9 corporation is a Pennsylvania bank holding company or is
10 otherwise authorized by statute to use its proposed name.

11 (iii) An insurance company nor contain any of the
12 words "annuity," "assurance," "beneficial," "bond,"
13 "casualty," "endowment," "fidelity," "fraternal,"
14 "guaranty," "indemnity," "insurance," "insurer,"
15 "reassurance," "reinsurance," "surety" or "title" when
16 used in such a way as to imply that the corporation is
17 engaged in the business of writing insurance or
18 reinsurance as principal or any other words of like
19 purport unless it is duly licensed as an insurance
20 company by its jurisdiction of incorporation or the
21 Insurance Department certifies that it has no objection
22 to the use by the corporation or proposed corporation of
23 the designation. The corporate name of a domestic
24 insurance corporation shall:

25 (A) contain the word "mutual" if, and only if,
26 it is a mutual insurance company; and

27 (B) clearly designate the object and purpose of
28 the corporation.

29 (iv) A public utility corporation furnishing
30 electric or gas service to the public, unless the

1 corporation or proposed corporation has as an express
2 corporate purpose the furnishing of service subject to
3 the jurisdiction of the Pennsylvania Public Utility
4 Commission or the Federal Energy Regulatory Commission.

5 (v) A credit union. See 17 Pa.C.S. § 104 (relating
6 to prohibition on use of words "credit union," etc.).

7 (2) The corporate name shall not contain:

8 (i) The word "college," "university" or "seminary"
9 when used in such a way as to imply that it is an
10 educational institution conforming to the standards and
11 qualifications prescribed by the State Board of
12 Education, unless there is submitted a certificate from
13 the Department of Education certifying that the
14 corporation or proposed corporation is entitled to use
15 that designation.

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

18 (iii) The words "engineer" or "engineering" or
19 "surveyor" or "surveying" or any other word implying that
20 any form of the practice of engineering or surveying as
21 defined in the act of May 23, 1945 (P.L.913, No.367),
22 known as the Professional Engineers Registration Law, is
23 provided unless at least one of the incorporators of a
24 proposed corporation or the directors of the existing
25 corporation has been properly registered with the State
26 Registration Board for Professional Engineers in the
27 practice of engineering or surveying and there is
28 submitted to the department a certificate from the board
29 to that effect.

30 (iv) The words "architect" or "architecture" or any

1 other word implying that any form of the practice of
2 architecture as defined in the act of December 14, 1982
3 (P.L.1227, No.281), known as the Architects Licensure
4 Law, is provided unless at least one of the incorporators
5 of a proposed corporation or the directors of the
6 existing corporation has been properly registered with
7 the Architects Licensure Board in the practice of
8 architecture and there is submitted to the department a
9 certificate from the board to that effect.

10 (v) The word "cooperative" or an abbreviation
11 thereof unless the corporation is a cooperative
12 corporation.

13 (d) Other rights unaffected.--This section shall not
14 abrogate or limit the law as to unfair competition or unfair
15 practices nor derogate from the common law, the principles of
16 equity or the provisions of Title 54 (relating to names) with
17 respect to the right to acquire and protect trade names.
18 Subsection (b) shall not apply if the applicant files in the
19 department a certified copy of a final order of a court of
20 competent jurisdiction establishing the prior right of the
21 applicant to the use of a name in this Commonwealth.

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

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

30 (2) any person adversely affected.

1 (f) Cross references.--See sections 135(e) (relating to
2 distinguishable names) and 1106(b)(2) (relating to uniform
3 application of subpart).

4 § 1304. Required name changes by senior corporations.

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

22 (b) Enforcement of undertaking to release name.--If a
23 corporation has used a name that is not distinguishable upon the
24 records of the Department of State from the name of another
25 corporation or other association as permitted by section 1303(b)
26 (1) (relating to duplicate use of names) and the other
27 corporation or other association continues to use its name in
28 this Commonwealth and does not change its name, cease to do
29 business, be wound up or withdraw as it proposed to do in its
30 consent or change its name as required by subsection (a), any

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

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

7 (2) any person adversely affected.

8 § 1305. Reservation of corporate name.

9 (a) General rule.--The exclusive right to the use of a
10 corporate name may be reserved by any person. The reservation
11 shall be made by delivering to the Department of State an
12 application to reserve a specified corporate name, executed by
13 the applicant. If the department finds that the name is
14 available for corporate use, it shall reserve the name for the
15 exclusive use of the applicant for a period of 120 days.

16 (b) Transfer of reservation.--The right to exclusive use of
17 a specified corporate name reserved under subsection (a) may be
18 transferred to any other person by delivering to the department
19 a notice of the transfer, executed by the person who reserved
20 the name, and specifying the name and address of the transferee.

21 (c) Cross references.--See sections 134 (relating to
22 docketing statement) and 4131 (relating to registration of
23 name).]

24 Section 13. Sections 1306(b), 1341(b)(3) and (d), 1571(a),
25 (b), (c) and (h) and 1575(a) introductory paragraph and (b) of
26 Title 15 are amended to read:

27 § 1306. Articles of incorporation.

28 * * *

29 (b) Other provisions authorized.--A provision of the
30 original articles or a provision of the articles approved by the

1 shareholders, in either case adopted under subsection (a) (8)
2 (ii), may relax or be inconsistent with and supersede any
3 provision of Chapter 3 (relating to entity transactions), 13
4 (relating to incorporation), 15 (relating to corporate powers,
5 duties and safeguards), 17 (relating to officers, directors and
6 shareholders) or 19 (relating to fundamental changes) concerning
7 the subjects specified in subsection (a) (8) (ii), except where a
8 provision of those chapters expressly provides that the articles
9 shall not relax or be inconsistent with any provision on a
10 specified subject. Notwithstanding the foregoing, the articles
11 may provide greater rights for shareholders than are authorized
12 by any provision of those chapters that otherwise provides that
13 the articles shall not relax or be inconsistent with any
14 provision on a specified subject.

15 * * *

16 § 1341. Statement of revival.

17 * * *

18 (b) Contents of statement.--The statement of revival shall
19 be executed in the name of the forfeited or expired corporation
20 and shall, subject to section 109 (relating to name of
21 commercial registered office provider in lieu of registered
22 address), set forth:

23 * * *

24 (3) The name that the corporation adopts as its new name
25 if the adoption of a new name is required by section [1304]
26 207 (relating to required name changes by senior
27 [corporations] associations).

28 * * *

29 (d) Cross [reference.--See section 134 (relating to
30 docketing statement).] references.--See sections 134 (relating

1 to docketing statement) and 135 (relating to requirements to be
2 met by filed documents).

3 § 1571. Application and effect of subchapter.

4 (a) General rule.--Except as otherwise provided in
5 subsection (b), any shareholder (as defined in section 1572
6 (relating to definitions)) of a business corporation shall have
7 the [right to dissent from, and to obtain payment of the fair
8 value of his shares in the event of, any corporate action, or to
9 otherwise obtain fair value for his shares,] rights and remedies
10 provided in this subchapter in connection with a transaction
11 under this title only where this [part] title expressly provides
12 that a shareholder shall have the rights and remedies provided
13 in this subchapter. See:

14 Section 329(c) (relating to special treatment of interest
15 holders).

16 Section 333 (relating to approval of merger).

17 Section 343 (relating to approval of interest exchange).

18 Section 353 (relating to approval of conversion).

19 Section 363 (relating to approval of division).

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

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

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

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

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

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

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

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

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

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

12 (b) Exceptions.--

13 (1) Except as otherwise provided in paragraph (2), the
14 holders of the shares of any class or series of shares shall
15 not have the right to dissent and obtain payment of the fair
16 value of the shares under this subchapter if, on the record
17 date fixed to determine the shareholders entitled to notice
18 of and to vote at the meeting at which a plan specified in
19 any of section [1930, 1931(d),] 333, 343, 353, 363 or 1932(c)
20 [or 1952(d)] is to be voted on or on the date of the first
21 public announcement that such a plan has been approved by the
22 shareholders by consent without a meeting, the shares are
23 either:

24 (i) listed on a national securities exchange [or
25 designated as a national market system security on an
26 interdealer quotation system by the National Association
27 of Securities Dealers, Inc.] registered under section 6
28 of the Exchange Act; or

29 (ii) held beneficially or of record by more than
30 2,000 persons.

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

4 (ii) Shares of any preferred or special class or
5 series unless the articles, the plan or the terms of the
6 transaction entitle all shareholders of the class or
7 series to vote thereon and require for the adoption of
8 the plan or the effectuation of the transaction the
9 affirmative vote of a majority of the votes cast by all
10 shareholders of the class or series.

11 (iii) Shares entitled to dissenters rights under
12 section 329(d) or 1906(c) (relating to dissenters rights
13 upon special treatment).

14 (3) The shareholders of a corporation that acquires by
15 purchase, lease, exchange or other disposition all or
16 substantially all of the shares, property or assets of
17 another corporation by the issuance of shares, obligations or
18 otherwise, with or without assuming the liabilities of the
19 other corporation and with or without the intervention of
20 another corporation or other person, shall not be entitled to
21 the rights and remedies of dissenting shareholders provided
22 in this subchapter regardless of the fact, if it be the case,
23 that the acquisition was accomplished by the issuance of
24 voting shares of the corporation to be outstanding
25 immediately after the acquisition sufficient to elect a
26 majority or more of the directors of the corporation.

27 (c) Grant of optional dissenters rights.--The bylaws or a
28 resolution of the board of directors may direct that all or a
29 part of the shareholders shall have dissenters rights in
30 connection with any corporate action or other transaction that

1 would otherwise not entitle such shareholders to dissenters
2 rights. See section 317 (relating to contractual dissenters
3 rights in entity transactions).

4 * * *

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

10 Section 315 (relating to nature of transactions).

11 Section 1105 (relating to restriction on equitable
12 relief).

13 Section 1763(c) (relating to determination of
14 shareholders of record).

15 Section 2512 (relating to dissenters rights procedure).

16 § 1575. Notice to demand payment.

17 (a) General rule.--If the proposed corporate action is
18 approved by the required vote at a meeting of shareholders of a
19 business corporation, the corporation shall [mail] deliver a
20 further notice to all dissenters who gave due notice of
21 intention to demand payment of the fair value of their shares
22 and who refrained from voting in favor of the proposed action.
23 If the proposed corporate action is approved by the shareholders
24 by less than unanimous consent without a meeting or is taken
25 without the need for approval by the shareholders, the
26 corporation shall [send] deliver to all shareholders who are
27 entitled to dissent and demand payment of the fair value of
28 their shares a notice of the adoption of the plan or other
29 corporate action. In either case, the notice shall:

30 * * *

1 (b) Time for receipt of demand for payment.--The time set
2 for receipt of the demand and deposit of certificated shares
3 shall be not less than 30 days from the [mailing] delivery of
4 the notice.

5 Section 14. Section 1757(a) and (b) of Title 15 are amended
6 and the section is amended by adding a subsection to read:

7 § 1757. Action by shareholders.

8 (a) General rule.--Except as otherwise provided in this
9 [subpart] title or in a bylaw adopted by the shareholders,
10 whenever any corporate action is to be taken by vote of the
11 shareholders of a business corporation, it shall be authorized
12 upon receiving the affirmative vote of a majority of the votes
13 cast by all shareholders entitled to vote thereon and, if any
14 shareholders are entitled to vote thereon as a class, upon
15 receiving the affirmative vote of a majority of the votes cast
16 by the shareholders entitled to vote as a class.

17 (b) Changes in required vote.--Whenever a provision of this
18 [subpart] title requires a specified number or percentage of
19 votes of shareholders or of a class of shareholders for the
20 taking of any action, a business corporation may prescribe in a
21 bylaw adopted by the shareholders that a higher number or
22 percentage of votes shall be required for the action. See
23 sections 1504(d) (relating to amendment of voting provisions)
24 and 1914(e) (relating to amendment of voting provisions).

25 * * *

26 (d) Cross reference.--See section 321 (relating to approval
27 by business corporation).

28 Section 15. Section 1766(c) of Title 15 is amended to read:
29 § 1766. Consent of shareholders in lieu of meeting.

30 * * *

1 (c) Effectiveness of action by partial consent.--An action
2 taken pursuant to subsection (b) to approve a transaction under
3 Chapter 3 (relating to entity transactions) shall not become
4 effective until after at least ten days' notice of the action
5 has been given to each shareholder entitled to vote thereon who
6 has not consented thereto. Any other action may become effective
7 immediately, but prompt notice that the action has been taken
8 shall be given to each shareholder entitled to vote thereon that
9 has not consented. This subsection may not be relaxed by any
10 provision of the articles.

11 * * *

12 Section 16. Sections 1901, 1902 and 1904 of Title 15 are
13 repealed:

14 [§ 1901. Omission of certain provisions from filed plans.

15 (a) General rule.--A plan as filed in the Department of
16 State under any provision of this chapter may omit all
17 provisions of the plan except provisions, if any:

18 (1) that are intended to amend or constitute the
19 operative provisions of the articles of a corporation as in
20 effect subsequent to the effective date of the plan; or

21 (2) that allocate or specify the respective assets and
22 liabilities of the resulting corporations, in the case of a
23 plan of division.

24 (b) Availability of full plan.--If any of the provisions of
25 a plan are omitted from the plan as filed in the department, the
26 articles of amendment, merger, consolidation, exchange, division
27 or conversion shall state that the full text of the plan is on
28 file at the principal place of business of the reclassifying,
29 surviving or new or a resulting corporation and shall state the
30 address thereof. A corporation that takes advantage of this

1 section shall furnish a copy of the full text of the plan, on
2 request and without cost, to any shareholder of any corporation
3 that was a party to the plan and, unless all parties to the plan
4 were closely held corporations, on request and at cost to any
5 other person.

6 § 1902. Statement of termination.

7 (a) General rule.--If a statement with respect to shares,
8 articles of amendment or articles of merger, consolidation,
9 exchange, division or conversion of a business corporation or to
10 which it is a party have been filed in the Department of State
11 prior to the termination of the amendment or plan pursuant to
12 provisions therefor set forth in the resolution or petition
13 relating to the amendment or in the plan, the termination shall
14 not be effective unless the corporation shall, prior to the time
15 the amendment or plan is to become effective, file in the
16 department a statement of termination. The statement of
17 termination shall be executed by the corporation that filed the
18 amendment or by each corporation that is a party to the plan,
19 unless the plan permits termination by less than all of the
20 corporations, in which case the statement shall be executed on
21 behalf of the corporation or corporations exercising the right
22 to terminate, and shall set forth:

23 (1) A copy of the statement with respect to shares,
24 articles of amendment or articles of merger, consolidation,
25 exchange, division or conversion relating to the amendment or
26 plan that is terminated.

27 (2) A statement that the amendment or plan has been
28 terminated in accordance with the provisions therefor set
29 forth therein.

30 (b) Cross references.--See sections 134 (relating to

1 docketing statement) and 138 (relating to statement of
2 correction).

3 § 1904. De facto transaction doctrine abolished.

4 The doctrine of de facto mergers, consolidations and other
5 fundamental transactions is abolished and the rules laid down by
6 Bloch v. Baldwin Locomotive Works, 75 Pa. D. & C. 24 (C.P. Del.
7 Cty. 1950), and Marks v. The Autocar Co., 153 F.Supp. 768 (E.D.
8 Pa. 1954), and similar cases are overruled. A transaction that
9 in form satisfies the requirements of this subpart may be
10 challenged by reason of its substance only to the extent
11 permitted by section 1105 (relating to restriction on equitable
12 relief).]

13 Section 17. Section 1905 of Title 15 is amended to read:

14 § 1905. Proposal of fundamental transactions.

15 Where any provision of this chapter requires that an
16 amendment of the articles[, a plan] or the dissolution of a
17 business corporation be proposed or approved by action of the
18 board of directors, that requirement shall be construed to
19 authorize and be satisfied by the written agreement or consent
20 of all of the shareholders of the corporation entitled to vote
21 thereon.

22 Section 18. Section 1906(a), (d)(1) and (e) of Title 15 are
23 amended and the section is amended by adding a subsection to
24 read:

25 § 1906. Special treatment of holders of shares of same class or
26 series.

27 (a) General rule.--Except as otherwise restricted in the
28 articles, a plan may contain a provision classifying the holders
29 of shares of a class or series into one or more separate groups
30 by reference to any facts or circumstances that are not

1 manifestly unreasonable and providing mandatory treatment for
2 shares of the class or series held by particular shareholders or
3 groups of shareholders that differs materially from the
4 treatment accorded other shareholders or groups of shareholders
5 holding shares of the same class or series (including a
6 provision modifying or rescinding rights previously created
7 under this section) if:

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

15 (ii) the provision voted on specifically enumerates
16 the type and extent of the special treatment authorized;
17 or

18 (2) under all the facts and circumstances, a court of
19 competent jurisdiction finds such special treatment is
20 undertaken in good faith, after reasonable deliberation and
21 is in the best interest of the corporation.

22 * * *

23 (c.2) Notice to shareholders.--A notice to shareholders of a
24 meeting called to act on a plan that provides for special
25 treatment must state that the plan provides for special
26 treatment. The notice must identify the shareholders receiving
27 special treatment unless the notice is accompanied by either a
28 summary of the plan that includes that information or the full
29 text of the plan.

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

1 (1) [The creation or issuance of securities, contracts,
2 warrants or other instruments evidencing any shares, option
3 rights, securities having conversion or option rights or
4 obligations authorized by section 2513 (relating to disparate
5 treatment of certain persons).] (Reserved).

6 * * *

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

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 (1.1) a plan of asset transfer adopted under section
13 1932(b) (relating to voluntary transfer of corporate assets);
14 or

15 (2) a resolution recommending that the corporation
16 dissolve voluntarily adopted under section 1972(a) (relating
17 to proposal of voluntary dissolution).

18 Section 19. Section 1908 of Title 15 is amended to read:

19 § 1908. Submission of matters to shareholders.

20 A business corporation may agree, in record form, to submit
21 an amendment [or plan] or other matter to its shareholders
22 whether or not the board of directors determines, at any time
23 after approving the matter, that the matter is no longer
24 advisable and recommends that the shareholders reject or vote
25 against it, regardless of whether the board of directors changes
26 its recommendation. If a corporation so agrees to submit a
27 matter to its shareholders, the matter is deemed to have been
28 validly adopted by the corporation when it has been approved by
29 the shareholders.

30 Section 20. Subchapter C heading of Chapter 19 of Title 15

1 is amended to read:

2 SUBCHAPTER C

3 MERGER [,CONSOLIDATION, SHARE EXCHANGES] LIABILITIES AND
4 SALE OF ASSETS

5 Section 21. Sections 1921, 1922, 1923, 1924, 1925, 1926,
6 1927, 1928, 1929, 1930 and 1931 of Title 15 are repealed:

7 [§ 1921. Merger and consolidation authorized.

8 (a) Domestic surviving or new corporation.--Any two or more
9 domestic business corporations, or any two or more foreign
10 business corporations, or any one or more domestic business
11 corporations and any one or more foreign business corporations,
12 may, in the manner provided in this subchapter, be merged into
13 one of the domestic business corporations, designated in this
14 subchapter as the surviving corporation, or consolidated into a
15 new corporation to be formed under this subpart, if the foreign
16 business corporations are authorized by the laws of the
17 jurisdiction under which they are incorporated to effect a
18 merger or consolidation with a corporation of another
19 jurisdiction.

20 (b) Foreign surviving or new corporation.--Any one or more
21 domestic business corporations, and any one or more foreign
22 business corporations, may, in the manner provided in this
23 subchapter, be merged into one of the foreign business
24 corporations, designated in this subchapter as the surviving
25 corporation, or consolidated into a new corporation to be
26 incorporated under the laws of the jurisdiction under which one
27 of the foreign business corporations is incorporated, if the
28 laws of that jurisdiction authorize a merger with or
29 consolidation into a corporation of another jurisdiction.

30 (c) Business trusts, partnerships and other associations.--

1 The provisions of this subchapter applicable to domestic and
2 foreign business corporations shall also be applicable to a
3 merger, consolidation or share exchange to which a domestic
4 business corporation is a party or in which such a corporation
5 is the resulting entity with, into or involving a domestic or
6 foreign partnership, business trust or other association. The
7 surviving, resulting or exchanging entity in such a merger,
8 consolidation or share exchange may be a corporation,
9 partnership, business trust or other association. Subject to the
10 provisions of Subchapter F of Chapter 85 (relating to merger and
11 consolidation), the powers and duties vested in and imposed upon
12 the board of directors and shareholders in this subchapter shall
13 be exercised and performed by the group of persons under the
14 direction of whom the business and affairs of the partnership,
15 business trust or other association are managed and the holders
16 or owners of beneficial or other interests in the partnership,
17 business trust or other association, respectively, irrespective
18 of the names by which the managing group and the holders or
19 owners of beneficial or other interests are designated. The
20 units into which the beneficial or other interests in the
21 partnership, business trust or other association are divided
22 shall be deemed to be shares for the purposes of applying the
23 provisions of this subchapter to a merger, consolidation or
24 share exchange involving the partnership, business trust or
25 other association. Dissenters rights shall be available to a
26 holder of beneficial or other interests only to the extent, if
27 any, provided by the law under which the partnership, business
28 trust or other association is organized.

29 § 1922. Plan of merger or consolidation.

30 (a) Preparation of plan.--A plan of merger or consolidation,

1 as the case may be, shall be prepared, setting forth:

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

4 (2) If the surviving or new corporation is or is to be a
5 domestic business corporation:

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

9 (ii) in the case of a consolidation, all of the
10 statements required by this subpart to be set forth in
11 restated articles.

12 (3) The manner and basis of converting the shares of
13 each corporation into shares or other securities or
14 obligations of the surviving or new corporation, or of
15 canceling some or all of the shares of a corporation, as the
16 case may be, and, if any of the shares of any of the
17 corporations that are parties to the merger or consolidation
18 are not to be canceled or converted solely into shares or
19 other securities or obligations of the surviving or new
20 corporation, the shares or other securities or obligations of
21 any other person or cash, property or rights that the holders
22 of such shares are to receive in exchange for, or upon
23 conversion of, such shares, and the surrender of any
24 certificates evidencing them, which securities or
25 obligations, if any, of any other person or cash, property or
26 rights may be in addition to or in lieu of the shares or
27 other securities or obligations of the surviving or new
28 corporation.

29 (4) Any provisions desired providing special treatment
30 of shares held by any shareholder or group of shareholders as

1 authorized by, and subject to the provisions of, section 1906
2 (relating to special treatment of holders of shares of same
3 class or series).

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

5 (b) Post-adoption amendment.--A plan of merger or
6 consolidation may contain a provision that the boards of
7 directors of the constituent corporations may amend the plan at
8 any time prior to its effective date, except that an amendment
9 made subsequent to the adoption of the plan by the shareholders
10 of any constituent domestic business corporation shall not
11 change:

12 (1) The amount or kind of shares, obligations, cash,
13 property or rights to be received in exchange for or on
14 conversion of all or any of the shares of the constituent
15 domestic business corporation adversely to the holders of
16 those shares.

17 (2) Any provision of the articles of the surviving or
18 new corporation as it is to be in effect immediately
19 following consummation of the merger or consolidation except
20 provisions that may be amended without the approval of the
21 shareholders under section 1914(c)(2) (relating to adoption
22 of amendments).

23 (3) Any of the other terms and conditions of the plan if
24 the change would adversely affect the holders of any shares
25 of the constituent domestic business corporation.

26 (c) Proposal.--Except where the approval of the board of
27 directors is unnecessary under this subchapter, every merger or
28 consolidation shall be proposed in the case of each domestic
29 business corporation by the adoption by the board of directors
30 of a resolution approving the plan of merger or consolidation.

1 Except where the approval of the shareholders is unnecessary
2 under this subchapter, the board of directors shall direct that
3 the plan be submitted to a vote of the shareholders entitled to
4 vote thereon at a regular or special meeting of the
5 shareholders.

6 (d) Party to plan or transaction.--A corporation,
7 partnership, business trust or other association that approves a
8 plan in its capacity as a shareholder or creditor of a merging
9 or consolidating corporation, or that furnishes all or a part of
10 the consideration contemplated by a plan, does not thereby
11 become a party to the plan or the merger or consolidation for
12 the purposes of this subchapter.

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

20 § 1923. Notice of meeting of shareholders.

21 (a) General rule.--Notice in record form of the meeting of
22 shareholders that will act on the proposed plan must be given to
23 each shareholder of record, whether or not entitled to vote
24 thereon, of each domestic business corporation that is a party
25 to the merger or consolidation. The notice must include or be
26 accompanied by the proposed plan or a summary thereof. If
27 Subchapter D of Chapter 15 (relating to dissenters rights) is
28 applicable to the holders of shares of any class or series, the
29 text of that subchapter and of section 1930 (relating to
30 dissenters rights) must be furnished to the holders of shares of

1 that class or series. If the surviving or new corporation will
2 be a nonregistered corporation, the notice must state that a
3 copy of its bylaws as they will be in effect immediately
4 following the merger or consolidation will be furnished to any
5 shareholder on request and without cost.

6 (b) Cross references.--See Subchapter A of Chapter 17
7 (relating to notice and meetings generally) and sections 2512
8 (relating to dissenters rights procedure) and 2528 (relating to
9 notice of shareholder meetings).

10 § 1924. Adoption of plan.

11 (a) General rule.--The plan of merger or consolidation shall
12 be adopted upon receiving the affirmative vote of a majority of
13 the votes cast by all shareholders entitled to vote thereon of
14 each of the domestic business corporations that is a party to
15 the merger or consolidation and, if any class or series of
16 shares is entitled to vote thereon as a class, the affirmative
17 vote of a majority of the votes cast in each class vote. The
18 holders of any class or series of shares of a domestic
19 corporation that is a party to a merger or consolidation that
20 effects any change in the articles of the corporation shall be
21 entitled to vote as a class on the plan if they would have been
22 entitled to a class vote under the provisions of section 1914
23 (relating to adoption of amendments) had the change been
24 accomplished under Subchapter B (relating to amendment of
25 articles). A proposed plan of merger or consolidation shall not
26 be deemed to have been adopted by the corporation unless it has
27 also been approved by the board of directors, regardless of the
28 fact that the board has directed or suffered the submission of
29 the plan to the shareholders for action.

30 (b) Adoption by board of directors.--

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

5 (i) whether or not the constituent corporation is
6 the surviving corporation:

7 (A) the surviving or new corporation is a
8 domestic business corporation and the articles of the
9 surviving or new corporation are identical to the
10 articles of the constituent corporation, except
11 changes that under section 1914(c) (relating to
12 adoption by board of directors) may be made without
13 shareholder action;

14 (B) each share of the constituent corporation
15 outstanding immediately prior to the effective date
16 of the merger or consolidation is to continue as or
17 to be converted into, except as may be otherwise
18 agreed by the holder thereof, an identical share of
19 the surviving or new corporation after the effective
20 date of the merger or consolidation; and

21 (C) the plan provides that the shareholders of
22 the constituent corporation are to hold in the
23 aggregate shares of the surviving or new corporation
24 to be outstanding immediately after the effectiveness
25 of the plan entitled to cast at least a majority of
26 the votes entitled to be cast generally for the
27 election of directors;

28 (ii) immediately prior to the adoption of the plan
29 and at all times thereafter prior to its effective date,
30 another corporation that is a party to the plan owns

1 directly or indirectly 80% or more of the outstanding
2 shares of each class of the constituent corporation; or
3 (iii) no shares of the constituent corporation have
4 been issued prior to the adoption of the plan of merger
5 or consolidation by the board of directors pursuant to
6 section 1922 (relating to plan of merger or
7 consolidation).

8 (2) If a merger or consolidation is effected pursuant to
9 paragraph (1)(i) or (iii), the plan of merger or
10 consolidation shall be deemed adopted by the constituent
11 corporation when it has been adopted by the board of
12 directors pursuant to section 1922.

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

22 (4) (i) Unless otherwise required by its bylaws, a plan
23 of merger or consolidation providing for the merger or
24 consolidation of a domestic business corporation
25 (referred to in this paragraph as the "constituent
26 corporation") with or into a single indirect wholly owned
27 subsidiary (referred to in this paragraph as the
28 "subsidiary corporation") of the constituent corporation
29 shall not require the approval of the shareholders of
30 either the constituent corporation or the subsidiary

1 corporation if all of the provisions of this paragraph
2 are satisfied.

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

5 (A) The constituent corporation and the
6 subsidiary corporation are the only parties to the
7 merger or consolidation, other than the resulting
8 corporation, if any, in a consolidation (the
9 corporation that survives or results from the merger
10 or consolidation is referred to in this paragraph as
11 the "resulting subsidiary").

12 (B) Each share or fraction of a share of the
13 capital stock of the constituent corporation
14 outstanding immediately prior to the effective time
15 of the merger or consolidation is converted in the
16 merger or consolidation into a share or equal
17 fraction of a share of capital stock of a holding
18 company having the same designations, rights, powers
19 and preferences and the qualifications, limitations
20 and restrictions as the share of stock of the
21 constituent corporation being converted in the merger
22 or consolidation.

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

25 (D) Immediately following the effective time of
26 the merger or consolidation, the articles of
27 incorporation and bylaws of the holding company are
28 identical to the articles of incorporation and bylaws
29 of the constituent corporation immediately before the
30 effective time of the merger or consolidation except

1 for changes that could be made without shareholder
2 approval under section 1914(c) (relating to adoption
3 by board of directors).

4 (E) Immediately following the effective time of
5 the merger or consolidation, the resulting subsidiary
6 is a direct or indirect wholly owned subsidiary of
7 the holding company.

8 (F) The directors of the constituent corporation
9 become or remain the directors of the holding company
10 upon the effective time of the merger or
11 consolidation.

12 (G) The board of directors of the constituent
13 corporation has made a good faith determination that
14 the shareholders of the constituent corporation will
15 not recognize gain or loss for United States Federal
16 Income Tax purposes.

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

24 (iv) If the holding company is a registered
25 corporation, the shares of the holding company issued in
26 connection with the merger or consolidation shall be
27 deemed to have been acquired at the time that the shares
28 of the constituent corporation converted in the merger or
29 consolidation were acquired.

30 (5) A plan of merger or consolidation adopted by the

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

16 (c) Termination of plan.--Prior to the time when a merger or
17 consolidation becomes effective, the merger or consolidation may
18 be terminated pursuant to provisions therefor, if any, set forth
19 in the plan. If articles of merger or consolidation have been
20 filed in the Department of State prior to the termination, a
21 statement under section 1902 (relating to statement of
22 termination) shall be filed in the department.

23 (d) Cross reference.--See section 2539 (relating to adoption
24 of plan of merger by board of directors).

25 § 1925. Authorization by foreign corporations.

26 The plan of merger or consolidation shall be authorized,
27 adopted or approved by each foreign business corporation that
28 desires to merge or consolidate in accordance with the laws of
29 the jurisdiction in which it is incorporated.

30 § 1926. Articles of merger or consolidation.

1 Upon the adoption of the plan of merger or consolidation by
2 the corporations desiring to merge or consolidate, as provided
3 in this subchapter, articles of merger or articles of
4 consolidation, as the case may be, shall, except as provided by
5 section 1924(b)(3) (relating to adoption by board of directors),
6 be executed by each corporation and shall, subject to section
7 109 (relating to name of commercial registered office provider
8 in lieu of registered address), set forth:

9 (1) The name and the location of the registered office,
10 including street and number, if any, of the domestic
11 surviving or new corporation or, in the case of a foreign
12 surviving or new corporation, the name of the corporation and
13 its jurisdiction of incorporation, together with either:

14 (i) If a qualified foreign business corporation, the
15 address, including street and number, if any, of its
16 registered office in this Commonwealth.

17 (ii) If a nonqualified foreign business corporation,
18 the address, including street and number, if any, of its
19 principal office under the laws of the jurisdiction in
20 which it is incorporated.

21 (2) The name and address, including street and number,
22 if any, of the registered office of each other domestic
23 business corporation and qualified foreign business
24 corporation that is a party to the merger or consolidation.

25 (3) If the plan is to be effective on a specified date,
26 the hour, if any, and the month, day and year of the
27 effective date.

28 (4) The manner in which the plan was adopted by each
29 domestic corporation and, if one or more foreign corporations
30 are parties to the merger or consolidation, the fact that the

1 plan was authorized, adopted or approved, as the case may be,
2 by each of the foreign corporations in accordance with the
3 laws of the jurisdiction in which it is incorporated.

4 (5) Except as provided in section 1901 (relating to
5 omission of certain provisions from filed plans), the plan of
6 merger or consolidation.

7 § 1927. Filing of articles of merger or consolidation.

8 (a) General rule.--The articles of merger or articles of
9 consolidation, as the case may be, and the certificates or
10 statement, if any, required by section 139 (relating to tax
11 clearance of certain fundamental transactions) shall be filed in
12 the Department of State.

13 (b) Cross reference.--See section 134 (relating to docketing
14 statement).

15 § 1928. Effective date of merger or consolidation.

16 Upon the filing of the articles of merger or the articles of
17 consolidation in the Department of State or upon the effective
18 date specified in the plan of merger or consolidation, whichever
19 is later, the merger or consolidation shall be effective. The
20 merger or consolidation of one or more domestic business
21 corporations into a foreign business corporation shall be
22 effective according to the provisions of law of the jurisdiction
23 in which the foreign corporation is incorporated, but not until
24 articles of merger or articles of consolidation have been
25 adopted and filed, as provided in this subchapter.

26 § 1929. Effect of merger or consolidation.

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

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

11 (b) Property rights.--All the property, real, personal and
12 mixed, and franchises of each of the corporations parties to the
13 merger or consolidation, and all debts due on whatever account
14 to any of them, including subscriptions for shares and other
15 choses in action belonging to any of them, shall be deemed to be
16 vested in and shall belong to the surviving or new corporation,
17 as the case may be, without further action, and the title to any
18 real estate, or any interest therein, vested in any of the
19 corporations shall not revert or be in any way impaired by
20 reason of the merger or consolidation. The surviving or new
21 corporation shall thenceforth be responsible for all the
22 liabilities of each of the corporations so merged or
23 consolidated. Liens upon the property of the merging or
24 consolidating corporations shall not be impaired by the merger
25 or consolidation and any claim existing or action or proceeding
26 pending by or against any of the corporations may be prosecuted
27 to judgment as if the merger or consolidation had not taken
28 place or the surviving or new corporation may be proceeded
29 against or substituted in its place.

30 (c) Taxes.--Any taxes, interest, penalties and public

1 accounts of the Commonwealth claimed against any of the merging
2 or consolidating corporations that are settled, assessed or
3 determined prior to or after the merger or consolidation shall
4 be the liability of the surviving or new corporation and,
5 together with interest thereon, shall be a lien against the
6 franchises and property, both real and personal, of the
7 surviving or new corporation.

8 (d) Articles of incorporation.--In the case of a merger, the
9 articles of incorporation of the surviving domestic business
10 corporation, if any, shall be deemed to be amended to the
11 extent, if any, that changes in its articles are stated in the
12 plan of merger. In the case of a consolidation into a domestic
13 business corporation, the statements that are set forth in the
14 plan of consolidation, or articles of incorporation set forth
15 therein, shall be deemed to be the articles of incorporation of
16 the new corporation.

17 § 1930. Dissenters rights.

18 (a) General rule.--If any shareholder of a domestic business
19 corporation that is to be a party to a merger or consolidation
20 pursuant to a plan of merger or consolidation objects to the
21 plan of merger or consolidation and complies with the provisions
22 of Subchapter D of Chapter 15 (relating to dissenters rights),
23 the shareholder shall be entitled to the rights and remedies of
24 dissenting shareholders therein provided, if any. See also
25 section 1906(c) (relating to dissenters rights upon special
26 treatment).

27 (b) Plans adopted by directors only.--Except as otherwise
28 provided pursuant to section 1571(c) (relating to grant of
29 optional dissenters rights), Subchapter D of Chapter 15 shall
30 not apply to any of the shares of a corporation that is a party

1 to a merger or consolidation pursuant to section 1924(b)(1)(i)
2 or (4) (relating to adoption by board of directors).

3 (c) Cross references.--See sections 1571(b) (relating to
4 exceptions) and 1904 (relating to de facto transaction doctrine
5 abolished).

6 § 1931. Share exchanges.

7 (a) General rule.--All the outstanding shares of one or more
8 classes or series of a domestic business corporation, designated
9 in this section as the exchanging corporation, may, in the
10 manner provided in this section, be acquired by any person,
11 designated in this section as the acquiring person, through an
12 exchange of all the shares pursuant to a plan of exchange. The
13 plan of exchange may also provide for the shares of any other
14 class or series of the exchanging corporation to be canceled or
15 converted into shares, other securities or obligations of any
16 person or cash, property or rights. The procedure authorized by
17 this section shall not be deemed to limit the power of any
18 person to acquire all or part of the shares or other securities
19 of any class or series of a corporation through a voluntary
20 exchange or otherwise by agreement with the holders of the
21 shares or other securities.

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

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

25 (2) The manner and basis of canceling the shares of the
26 exchanging corporation or exchanging or converting the shares
27 of the exchanging corporation into shares or other securities
28 or obligations of the acquiring person, and, if any of the
29 shares of the exchanging corporation are not to be exchanged
30 or converted solely into shares or other securities or

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

10 (3) Any changes desired to be made in the articles of
11 the exchanging corporation, which may include a restatement
12 of the articles.

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

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

21 (c) Proposal and adoption.--The plan of exchange shall be
22 proposed and adopted and may be amended after its adoption and
23 terminated by the exchanging corporation in the manner provided
24 by this subchapter for the proposal, adoption, amendment and
25 termination of a plan of merger except section 1924(b) (relating
26 to adoption by board of directors). There shall be included in,
27 or enclosed with, the notice of the meeting of shareholders to
28 act on the plan a copy or a summary of the plan and, if
29 Subchapter D of Chapter 15 (relating to dissenters rights) is
30 applicable, a copy of the subchapter and of subsection (d). The

1 holders of any class of shares to be exchanged or converted
2 pursuant to the plan of exchange shall be entitled to vote as a
3 class on the plan if they would have been entitled to vote on a
4 plan of merger that affects the class in substantially the same
5 manner as the plan of exchange.

6 (d) Dissenters rights in share exchanges.--Any holder of
7 shares that are to be canceled, exchanged or converted pursuant
8 to a plan of exchange who objects to the plan and complies with
9 the provisions of Subchapter D of Chapter 15 shall be entitled
10 to the rights and remedies of dissenting shareholders therein
11 provided, if any. See section 1906(c) (relating to dissenters
12 rights upon special treatment).

13 (e) Articles of exchange.--Upon adoption of a plan of
14 exchange, as provided in this section, articles of exchange
15 shall be executed by the exchanging corporation and shall set
16 forth:

17 (1) The name and, subject to section 109 (relating to
18 name of commercial registered office provider in lieu of
19 registered address), the location of the registered office,
20 including street and number, if any, of the exchanging
21 corporation.

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

25 (3) The manner in which the plan was adopted by the
26 exchanging corporation.

27 (4) Except as provided in section 1901 (relating to
28 omission of certain provisions from filed plans), the plan of
29 exchange.

30 The articles of exchange shall be filed in the Department of

1 State. See sections 134 (relating to docketing statement) and
2 135 (relating to requirements to be met by filed documents).

3 (f) Effective date.--Upon the filing of articles of exchange
4 in the department or upon the effective date specified in the
5 plan of exchange, whichever is later, the plan shall become
6 effective.

7 (g) Effect of plan.--Upon the plan of exchange becoming
8 effective, the shares of the exchanging corporation that are,
9 under the terms of the plan, to be canceled, converted or
10 exchanged shall cease to exist or shall be converted or
11 exchanged. The former holders of the shares shall thereafter be
12 entitled only to the shares, other securities or obligations or
13 cash, property or rights into which they have been converted or
14 for which they have been exchanged in accordance with the plan,
15 and the acquiring person shall be the holder of the shares of
16 the exchanging corporation stated in the plan to be acquired by
17 such person. The articles of incorporation of the exchanging
18 corporation shall be deemed to be amended to the extent, if any,
19 that changes in its articles are stated in the plan of exchange.

20 (h) Special requirements.--If any provision of the articles
21 or bylaws of an exchanging domestic business corporation adopted
22 before October 1, 1989, requires for the proposal or adoption of
23 a plan of merger, consolidation or asset transfer a specific
24 number or percentage of votes of directors or shareholders or
25 other special procedures, the plan of exchange shall not be
26 proposed by the directors or adopted by the shareholders without
27 that number or percentage of votes or compliance with the other
28 special procedures.

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

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

6 Section 22. Section 1932(b)(1), (2) and (4) of Title 15 are
7 amended to read:

8 § 1932. Voluntary transfer of corporate assets.

9 * * *

10 (b) Shareholder approval required.--

11 (1) A sale, lease, exchange or other disposition of all,
12 or substantially all, the property and assets, with or
13 without the goodwill, of a business corporation, if not made
14 pursuant to subsection (a) or (d) or to section 1551
15 (relating to distributions to shareholders) or Subchapter [D]
16 F of Chapter 3 (relating to division), may be made only
17 pursuant to a plan of asset transfer in the manner provided
18 in this subsection. A corporation selling, leasing or
19 otherwise disposing of all, or substantially all, its
20 property and assets is referred to in this subsection and in
21 subsection (c) as the "transferring corporation."

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

1 corporation within the meaning of that term as used in this
2 section.

3 * * *

4 (4) The plan of asset transfer shall be proposed and
5 adopted, and may be amended after its adoption and
6 terminated, by the transferring corporation in the manner
7 provided in [this subchapter] Chapter 3 (relating to entity
8 transactions) for the proposal, adoption, amendment and
9 termination of a plan of merger, except section [1924(b)
10 (relating to adoption by board of directors)] 321(d)
11 (relating to approval by business corporation). The
12 procedures of [this subchapter] Chapter 3 shall not be
13 applicable to the person acquiring the property or assets of
14 the transferring corporation. There shall be included in, or
15 enclosed with, the notice of the meeting of the shareholders
16 of the transferring corporation to act on the plan a copy or
17 a summary of the plan and, if Subchapter D of Chapter 15
18 (relating to dissenters rights) is applicable, a copy of the
19 subchapter and of subsection (c).

20 * * *

21 Section 23. Subchapter D heading and sections 1951, 1952,
22 1953, 1954, 1955, 1956, 1957, Subchapter E and section 1980 of
23 Chapter 19 of Title 15 are repealed:

24 [SUBCHAPTER D

25 DIVISION

26 § 1951. Division authorized.

27 (a) Division of domestic corporation.--Any domestic business
28 corporation may, in the manner provided in this subchapter, be
29 divided into two or more domestic business corporations
30 incorporated or to be incorporated under this article, or into

1 one or more domestic business corporations and one or more
2 foreign business corporations to be incorporated under the laws
3 of another jurisdiction or jurisdictions, or into two or more
4 foreign business corporations, if the laws of the other
5 jurisdictions authorize the division.

6 (b) Division of foreign corporation.--Any foreign business
7 corporation may, in the manner provided in this subchapter, be
8 divided into one or more domestic business corporations to be
9 incorporated under this subpart and one or more foreign business
10 corporations incorporated or to be incorporated under the laws
11 of another jurisdiction or jurisdictions, or into two or more
12 domestic business corporations, if the foreign business
13 corporation is authorized under the laws of the jurisdiction
14 under which it is incorporated to effect a division.

15 (c) Surviving and new corporations.--The corporation
16 effecting a division, if it survives the division, is designated
17 in this subchapter as the surviving corporation. All
18 corporations originally incorporated by a division are
19 designated in this subchapter as new corporations. The surviving
20 corporation, if any, and the new corporation or corporations are
21 collectively designated in this subchapter as the resulting
22 corporations.

23 § 1952. Proposal and adoption of plan of division.

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

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

28 (i) The reclassification of the shares of the
29 surviving corporation, if there be one, and, if any of
30 the shares of the dividing corporation are not to be

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

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

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

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

20 (4) The articles of incorporation required by subsection
21 (b).

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

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

28 (b) Articles of new corporations.--There shall be included
29 in or annexed to the plan of division:

30 (1) Articles of incorporation, which shall contain all

1 of the statements required by this subpart to be set forth in
2 restated articles, for each of the new domestic business
3 corporations, if any, resulting from the division.

4 (2) Articles of incorporation, certificates of
5 incorporation or other charter documents for each of the new
6 foreign business corporations, if any, resulting from the
7 division.

8 (c) Proposal and adoption.--Except as otherwise provided in
9 section 1953 (relating to division without shareholder
10 approval), the plan of division shall be proposed and adopted,
11 and may be amended after its adoption and terminated, by a
12 domestic business corporation in the manner provided for the
13 proposal, adoption, amendment and termination of a plan of
14 merger in Subchapter C (relating to merger, consolidation, share
15 exchanges and sale of assets), except section 1924(b) (relating
16 to adoption by board of directors), or, if the dividing
17 corporation is a foreign business corporation, in accordance
18 with the laws of the jurisdiction in which it is incorporated.
19 There shall be included in, or enclosed with, the notice of the
20 meeting of shareholders to act on the plan a copy or a summary
21 of the plan and, if Subchapter D of Chapter 15 (relating to
22 dissenters rights) is applicable, a copy of the subchapter and
23 of subsection (d).

24 (d) Dissenters rights in division.--

25 (1) Except as otherwise provided in paragraph (2), any
26 shareholder of a business corporation that adopts a plan of
27 division who objects to the plan and complies with the
28 provisions of Subchapter D of Chapter 15 shall be entitled to
29 the rights and remedies of dissenting shareholders therein
30 provided, if any. See section 1906(c) (relating to dissenters

1 rights upon special treatment).

2 (2) Except as otherwise provided pursuant to section
3 1571(c) (relating to grant of optional dissenters rights),
4 Subchapter D of Chapter 15 shall not apply to any of the
5 shares of a corporation that is a party to a plan of division
6 pursuant to section 1953 (relating to division without
7 shareholder approval).

8 (f) Action by holders of preferred or special shares.--If
9 the dividing corporation has outstanding any shares of any
10 preferred or special class or series, the holders of the
11 outstanding shares of the class or series shall be entitled to
12 vote as a class on the plan regardless of any limitations stated
13 in the articles or bylaws on the voting rights of the class or
14 series if the plan of division:

15 (1) provides that the dividing corporation will not
16 survive the division; or

17 (2) amends the articles or bylaws of the surviving
18 corporation in a manner that would entitle the holders of
19 such preferred or special shares to a class vote thereon
20 under the articles, bylaws or section 1914(b) (relating to
21 statutory voting rights).

22 (g) Rights of holders of indebtedness.--If any debt
23 securities, notes or similar evidences of indebtedness for money
24 borrowed, whether secured or unsecured, indentures or other
25 contracts were issued, incurred or executed by the dividing
26 corporation before August 21, 2001, and have not been amended
27 subsequent to that date, the liability of the dividing
28 corporation thereunder shall not be affected by the division nor
29 shall the rights of the obligees thereunder be impaired by the
30 division, and each of the resulting corporations may be

1 proceeded against or substituted in place of the dividing
2 corporation as joint and several obligors on such liability,
3 regardless of any provision of the plan of division apportioning
4 the liabilities of the dividing corporation.

5 (h) Special requirements.--If any provision of the articles
6 or bylaws of a dividing domestic business corporation adopted
7 before October 1, 1989, requires for the proposal or adoption of
8 a plan of merger, consolidation or asset transfer a specific
9 number or percentage of votes of directors or shareholders or
10 other special procedures, the plan of division shall not be
11 proposed or adopted by the directors or (if adoption by the
12 shareholders is otherwise required by this subchapter) adopted
13 by the shareholders without that number or percentage of votes
14 or compliance with the other special procedures.

15 (i) Reference to outside facts.--Any of the terms of a plan
16 of division may be made dependent upon facts ascertainable
17 outside of the plan if the manner in which the facts will
18 operate upon the terms of the plan is set forth in the plan.
19 Such facts may include, without limitation, actions or events
20 within the control of or determinations made by the dividing
21 corporation or a representative of the dividing corporation.
22 § 1953. Division without shareholder approval.

23 (a) General rule.--Unless otherwise restricted by its bylaws
24 or required by section 1952(f) (relating to action by holders of
25 preferred or special shares), a plan of division that does not
26 alter the state of incorporation of a business corporation,
27 provide for special treatment nor amend in any respect the
28 provisions of its articles (except amendments which under
29 section 1914(c) (relating to adoption by board of directors) may
30 be made without shareholder action) shall not require the

1 approval of the shareholders of the corporation if:

2 (1) the dividing corporation has only one class of
3 shares outstanding and the shares and other securities, if
4 any, of each corporation resulting from the plan are
5 distributed pro rata to the shareholders of the dividing
6 corporation;

7 (2) the dividing corporation survives the division and
8 all the shares and other securities and obligations, if any,
9 of all new corporations resulting from the plan are owned
10 solely by the surviving corporation; or

11 (3) the allocation of assets among the resulting
12 corporations effected by the division, if effected by means
13 of a sale, lease, exchange or other disposition, would not
14 require the approval of shareholders under section 1932(b)
15 (relating to shareholder approval required).

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

1 § 1954. Articles of division.

2 Upon the adoption of a plan of division by the corporation
3 desiring to divide, as provided in this subchapter, articles of
4 division shall be executed by the corporation and shall, subject
5 to section 109 (relating to name of commercial registered office
6 provider in lieu of registered address), set forth:

7 (1) The name and the location of the registered office,
8 including street and number, if any, of the dividing domestic
9 business corporation or, in the case of a dividing foreign
10 business corporation, the name of the corporation and the
11 jurisdiction in which it is incorporated, together with
12 either:

13 (i) If a qualified foreign business corporation, the
14 address, including street and number, if any, of its
15 registered office in this Commonwealth.

16 (ii) If a nonqualified foreign business corporation,
17 the address, including street and number, if any, of its
18 principal office under the laws of that jurisdiction.

19 (2) The statute under which the dividing corporation was
20 incorporated and the date of incorporation.

21 (3) A statement that the dividing corporation will, or
22 will not, survive the division.

23 (4) The name and the address, including street and
24 number, if any, of the registered office of each new domestic
25 business corporation or qualified foreign business
26 corporation resulting from the division.

27 (5) If the plan is to be effective on a specific date,
28 the hour, if any, and the month, day and year of the
29 effective date.

30 (6) The manner in which the plan was adopted by the

1 corporation.

2 (7) Except as provided in section 1901 (relating to
3 omission of certain provisions from filed plans), the plan of
4 division.

5 § 1955. Filing of articles of division.

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

10 (b) Cross references.--See sections 134 (relating to
11 docketing statement) and 135 (relating to requirements to be met
12 by filed documents).

13 § 1956. Effective date of division.

14 Upon the filing of articles of division in the Department of
15 State or upon the effective date specified in the plan of
16 division, whichever is later, the division shall become
17 effective. The division of a domestic business corporation into
18 one or more foreign business corporations or the division of a
19 foreign business corporation shall be effective according to the
20 laws of the jurisdictions where the foreign corporations are or
21 are to be incorporated, but not until articles of division have
22 been adopted and filed as provided in this subchapter.

23 § 1957. Effect of division.

24 (a) Multiple resulting corporations.--Upon the division
25 becoming effective, the dividing corporation shall be subdivided
26 into the distinct and independent resulting corporations named
27 in the plan of division and, if the dividing corporation is not
28 to survive the division, the existence of the dividing
29 corporation shall cease. The resulting corporations, if they are
30 domestic business corporations, shall not thereby acquire

1 authority to engage in any business or exercise any right that a
2 corporation may not be incorporated under this subpart to engage
3 in or exercise. Any resulting foreign business corporation that
4 is stated in the articles of division to be a qualified foreign
5 business corporation shall be a qualified foreign business
6 corporation under Article D (relating to foreign business
7 corporations), and the articles of division shall be deemed to
8 be the application for a certificate of authority and the
9 certificate of authority issued thereon of the corporation.

10 (b) Property rights; allocations of assets and
11 liabilities.--

12 (1) (i) All the property, real, personal and mixed, and
13 franchises of the dividing corporation, and all debts due
14 on whatever account to it, including subscriptions for
15 shares and other choses in action belonging to it, shall
16 (except as otherwise provided in paragraph (2)), to the
17 extent allocations of assets are contemplated by the plan
18 of division, be deemed without further action to be
19 allocated to and vested in the resulting corporations on
20 such a manner and basis and with such effect as is
21 specified in the plan, or per capita among the resulting
22 corporations, as tenants in common, if no specification
23 is made in the plan, and the title to any real estate, or
24 interest therein, vested in any of the corporations shall
25 not revert or be in any way impaired by reason of the
26 division.

27 (ii) Upon the division becoming effective, the
28 resulting corporations shall each thenceforth be
29 responsible as separate and distinct corporations only
30 for such liabilities as each corporation may undertake or

1 incur in its own name but shall be liable for the
2 liabilities of the dividing corporation in the manner and
3 on the basis provided in subparagraphs (iv) and (v).

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

6 (iv) Except as provided in section 1952(g) (relating
7 to proposal and adoption of plan of division), to the
8 extent allocations of liabilities are contemplated by the
9 plan of division, the liabilities of the dividing
10 corporation shall be deemed without further action to be
11 allocated to and become the liabilities of the resulting
12 corporations on such a manner and basis and with such
13 effect as is specified in the plan; and one or more, but
14 less than all, of the resulting corporations shall be
15 free of the liabilities of the dividing corporation to
16 the extent, if any, specified in the plan, if in either
17 case:

18 (A) no fraud on minority shareholders or
19 shareholders without voting rights or violation of
20 law shall be effected thereby; and

21 (B) the plan does not constitute a fraudulent
22 transfer under 12 Pa.C.S. Ch. 51 (relating to
23 fraudulent transfers).

24 (v) If the conditions in subparagraph (iv) for
25 freeing one or more of the resulting corporations from
26 the liabilities of the dividing corporation or for
27 allocating some or all of the liabilities of the dividing
28 corporation are not satisfied, the liabilities of the
29 dividing corporation as to which those conditions are not
30 satisfied shall not be affected by the division nor shall

1 the rights of creditors thereunder be impaired by the
2 division and any claim existing or action or proceeding
3 pending by or against the corporation with respect to
4 those liabilities may be prosecuted to judgment as if the
5 division had not taken place, or the resulting
6 corporations may be proceeded against or substituted in
7 place of the dividing corporation as joint and several
8 obligors on those liabilities, regardless of any
9 provision of the plan of division apportioning the
10 liabilities of the dividing corporation.

11 (vi) The conditions in subparagraph (iv) for freeing
12 one or more of the resulting corporations from the
13 liabilities of the dividing corporation and for
14 allocating some or all of the liabilities of the dividing
15 corporation shall be conclusively deemed to have been
16 satisfied if the plan of division has been approved by
17 the Department of Banking, the Insurance Department or
18 the Pennsylvania Public Utility Commission in a final
19 order issued after August 21, 2001, that has become not
20 subject to further appeal.

21 (2) (i) The allocation of any fee or freehold interest
22 or leasehold having a remaining term of 30 years or more
23 in any tract or parcel of real property situate in this
24 Commonwealth owned by a dividing corporation (including
25 property owned by a foreign business corporation dividing
26 solely under the law of another jurisdiction) to a new
27 corporation resulting from the division shall not be
28 effective until one of the following documents is filed
29 in the office for the recording of deeds of the county,
30 or each of them, in which the tract or parcel is

1 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 articles of division.

6 (C) A copy of the articles of division certified
7 by the Department of State.

8 (D) A declaration of acquisition setting forth
9 the value of real estate holdings in such county of
10 the corporation 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 an allocation of ownership of any motor
14 vehicle, trailer or semitrailer to a new corporation
15 under this section or under a similar law of any other
16 jurisdiction but any such allocation shall be effective
17 only upon compliance with the requirements of 75 Pa.C.S.
18 § 1116 (relating to issuance of new certificate following
19 transfer).

20 (3) It shall not be necessary for a plan of division to
21 list each individual asset or liability of the dividing
22 corporation to be allocated to a new corporation so long as
23 those assets and liabilities are described in a reasonable
24 manner.

25 (4) Each new corporation shall hold any assets and
26 liabilities allocated to it as the successor to the dividing
27 corporation, and those assets and liabilities shall not be
28 deemed to have been assigned to the new corporation in any
29 manner, whether directly or indirectly or by operation of
30 law.

1 (c) Taxes.--Any taxes, interest, penalties and public
2 accounts of the Commonwealth claimed against the dividing
3 corporation that are settled, assessed or determined prior to or
4 after the division shall be the liability of any of the
5 resulting corporations and, together with interest thereon,
6 shall be a lien against the franchises and property, both real
7 and personal, of all the corporations. Upon the application of
8 the dividing corporation, the Department of Revenue, with the
9 concurrence of the Office of Employment Security of the
10 Department of Labor and Industry, shall release one or more, but
11 less than all, of the resulting corporations from liability and
12 liens for all taxes, interest, penalties and public accounts of
13 the dividing corporation due the Commonwealth for periods prior
14 to the effective date of the division if those departments are
15 satisfied that the public revenues will be adequately secured.

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

20 (e) Articles of new corporations.--The statements that are
21 set forth in the plan of division with respect to each new
22 domestic business corporation and that are required or permitted
23 to be set forth in restated articles of incorporation of
24 corporations incorporated under this subpart, or the articles of
25 incorporation of each new corporation set forth therein, shall
26 be deemed to be the articles of incorporation of each new
27 corporation.

28 (f) Directors and officers.--Unless otherwise provided in
29 the plan, the directors and officers of the dividing corporation
30 shall be the initial directors and officers of each of the

1 resulting corporations.

2 (g) Disposition of shares.--Unless otherwise provided in the
3 plan, the shares and other securities or obligations, if any, of
4 each new corporation resulting from the division shall be
5 distributable to:

6 (1) the surviving corporation, if the dividing
7 corporation survives the division; or

8 (2) the holders of the common or other residuary shares
9 of the dividing corporation pro rata, in any other case.

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 business
13 corporation shall be governed solely by the laws of this
14 Commonwealth and any other jurisdiction under the laws of
15 which any of the resulting corporations is incorporated.

16 (2) The effect of a division on the assets and
17 liabilities of the dividing corporation shall be governed
18 solely by the laws of this Commonwealth and any other
19 jurisdiction under the laws of which any of the resulting
20 corporations is incorporated.

21 (3) The validity of any allocations of assets or
22 liabilities by a plan of division of a domestic business
23 corporation, regardless of whether or not any of the new
24 corporations is a foreign business corporation, shall be
25 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 SUBCHAPTER E

1 (b) Proposal and adoption.--The plan of conversion shall be
2 proposed and adopted, and may be amended after its adoption and
3 terminated, by the business corporation in the manner provided
4 for the proposal, adoption, amendment and termination of a plan
5 of merger in Subchapter C (relating to merger, consolidation,
6 share exchanges and sale of assets), except section 1924(b)
7 (relating to adoption by board of directors). There shall be
8 included in, or enclosed with, the notice of meeting of
9 shareholders of the business corporation that will act upon the
10 plan a copy or a summary of the plan and of Subchapter D of
11 Chapter 15 (relating to dissenters rights) and of subsection
12 (c).

13 (c) Dissenters rights in conversion.--Any shareholder of a
14 business corporation that adopts a plan of conversion into a
15 nonprofit corporation who objects to the plan of conversion and
16 complies with the provisions of Subchapter D of Chapter 15 shall
17 be entitled to the rights and remedies of dissenting
18 shareholders therein provided.

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

26 § 1963. Articles of conversion.

27 Upon the adoption of a plan of conversion by the business
28 corporation desiring to convert, as provided in this subchapter,
29 articles of conversion shall be executed by the corporation and
30 shall set forth:

1 (1) The name of the corporation and, subject to section
2 109 (relating to name of commercial registered office
3 provider in lieu of registered address), the address,
4 including street and number, if any, of its registered
5 office.

6 (2) The statute under which the corporation was
7 incorporated and the date of incorporation.

8 (3) If the plan is to be effective on a specified date,
9 the hour, if any, and the month, day and year of the
10 effective date.

11 (4) The manner in which the plan was adopted by the
12 corporation.

13 (5) Except as provided in section 1901 (relating to
14 omission of certain provisions from filed plans), the plan of
15 conversion.

16 § 1964. Filing of articles of conversion.

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

19 (b) Cross reference.--See section 134 (relating to docketing
20 statement).

21 § 1965. Effective date of conversion.

22 Upon the filing of articles of conversion in the Department
23 of State or upon the effective date specified in the plan of
24 conversion, whichever is later, the conversion shall become
25 effective.

26 § 1966. Effect of conversion.

27 Upon the conversion becoming effective, the converting
28 business corporation shall be deemed to be a nonprofit
29 corporation subject to the provisions of this part relating to
30 nonprofit corporations for all purposes, shall cease to be a

1 business corporation and shall not thereafter operate in any
2 manner resulting in pecuniary profit, incidental or otherwise,
3 to its members or shareholders. The corporation shall remain
4 liable for all existing obligations, public or private, and
5 taxes due the Commonwealth or any other taxing authority for
6 periods prior to the effective date of the conversion and, as a
7 nonprofit corporation, it shall continue to be entitled to all
8 assets theretofore pertaining to it as a business corporation.

9 § 1980. Dissolution by domestication.

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

27 Section 24. Sections 2121, 2501(c), 2521, 2538(a)(1) and (2)
28 and (b), 2539, 2721, 2921(b), 3301(c) and 3304(b) of Title 15
29 are amended to read:

30 § 2121. Corporate name of nonstock corporations.

1 (a) General rule.--The corporate name of a nonstock
2 corporation may contain the word "mutual."

3 (b) Insurance names.--See section [1303(c)(1)(iii) (relating
4 to corporate name)] 202(c)(1)(iii) (relating to requirements for
5 names generally).

6 § 2501. Application and effect of chapter.

7 * * *

8 (c) Effect of a contrary provision of the articles.--

9 (1) [The] Except as provided in section 2521 (relating
10 to call of special meetings of shareholders), the articles of
11 a registered corporation may provide either expressly or by
12 necessary implication that any one or more of the provisions
13 of Subchapters B (relating to powers, duties and safeguards),
14 C (relating to directors and shareholders) and D (relating to
15 fundamental changes generally) shall not be applicable in
16 whole or in part to the corporation.

17 (2) The articles of a registered corporation may provide
18 that any one or more of the provisions of Subchapter E
19 (relating to control transactions) and following of this
20 chapter shall not be applicable in whole or in part to the
21 corporation only if, to the extent and in the manner,
22 expressly permitted by the subchapter the applicability of
23 which is so affected. Where any provision of Subchapter E and
24 following of this chapter permits the applicability of a
25 subchapter to be varied by a provision of the articles, the
26 applicability may be varied by an amendment of the articles
27 only if, to the extent and in the manner, expressly permitted
28 by the subchapter the applicability of which is so affected.

29 * * *

30 § 2521. Call of special meetings of shareholders.

1 (a) General rule.--The shareholders of a registered
2 corporation shall not be entitled by statute to call a special
3 meeting of the shareholders.

4 (b) Exception.--Subsection (a) shall not apply to the call
5 of a special meeting by an interested shareholder (as defined in
6 section 2553 (relating to interested shareholder)) for the
7 purpose of approving a business combination under section
8 2555(3) or (4) (relating to requirements relating to certain
9 business combinations).

10 (c) Contrary articles provision.--A provision of the
11 articles of a registered corporation described in section
12 2502(1) (relating to registered corporation status) adopted
13 after {the Legislative Reference Bureau shall insert here the
14 effective date of this amendment} may not provide that a special
15 meeting may be called by less than 25% of the votes that all
16 shareholders would be entitled to cast at the meeting.

17 § 2538. Approval of transactions with interested shareholders.

18 (a) General rule.--The following transactions shall require
19 the affirmative vote of the shareholders entitled to cast at
20 least a majority of the votes that all shareholders other than
21 the interested shareholder are entitled to cast with respect to
22 the transaction, without counting the vote of the interested
23 shareholder:

24 (1) Any transaction authorized under Subchapter C of
25 Chapter 19 (relating to merger[,consolidation, share
26 exchanges] liabilities and sale of assets) or Subchapter C
27 (relating to merger) or D (relating to interest exchange) of
28 Chapter 3 between a registered corporation or subsidiary
29 thereof and a shareholder of the registered corporation.

30 (2) Any transaction authorized under Subchapter [D] F of

1 Chapter [19] 3 (relating to division) in which the interested
2 shareholder receives a disproportionate amount of any of the
3 shares or other securities of any corporation surviving or
4 resulting from the plan of division.

5 * * *

6 (b) Exceptions.--Subsection (a) shall not apply to a
7 transaction:

8 (1) that has been approved by a majority vote of the
9 board of directors without counting the vote of directors
10 who:

11 (i) are directors or officers of, or have a material
12 equity interest in, the interested shareholder; or

13 (ii) were nominated for election as a director by
14 the interested shareholder, and first elected as a
15 director, within 24 months of the date of the vote on the
16 proposed transaction;

17 (2) in which the consideration to be received by the
18 shareholders for shares of any class of which shares are
19 owned by the interested shareholder is not less than the
20 highest amount paid by the interested shareholder in
21 acquiring shares of the same class; or

22 (3) effected pursuant to section [1924(b) (1) (ii)
23 (relating to adoption by board of directors)] 321(d) (1) (ii)
24 (relating to approval by business corporation).

25 * * *

26 § 2539. Adoption of plan of merger by board of directors.

27 Section [1924(b) (1) (ii) (relating to adoption by board of
28 directors)] 321(d) (1) (ii) (relating to approval by business
29 corporation) shall be applicable to a plan relating to a merger
30 [or consolidation] to which a registered corporation described

1 in section 2502(1)(i) (relating to registered corporation
2 status) is a party only if the plan:

3 (1) has been approved by the board of directors of the
4 registered corporation; and

5 (2) is consistent with the requirements, if applicable,
6 of Subchapter F (relating to business combinations).

7 § 2721. Bylaw and fundamental change procedures.

8 So long as a business corporation is a management corporation
9 subject to this chapter:

10 (1) The board of directors shall have the full authority
11 vested by this subpart in the shareholders to amend the
12 articles under section 2704(b) (relating to procedure) to
13 renew the election of the corporation to be subject to this
14 chapter and to adopt or change the bylaws, and a bylaw
15 adopted by the board of directors pursuant to this section
16 may continue in effect as long as the corporation remains
17 subject to this chapter.

18 (2) [An amendment or plan shall not be adopted under
19 Chapter 19 (relating to fundamental changes), and a bylaw
20 shall not be adopted or changed by the shareholders, without
21 the approval of the board of directors.] None of the
22 following shall be adopted or changed by the shareholders
23 without the approval of the board of directors:

24 (i) a plan under Chapter 3 (relating to entity
25 transactions);

26 (ii) an amendment of the articles;

27 (iii) an amendment, adoption or repeal of a bylaw;

28 (iv) a plan of asset transfer; or

29 (v) a resolution recommending dissolution.

30 (3) In the case of a corporation that in the ordinary

1 course of business redeems all outstanding shares at the
2 option of the shareholder at the net asset value or at
3 another agreed method or amount of value thereof, [an
4 amendment or plan under Chapter 19] a plan under Chapter 3,
5 an amendment of the articles or a plan of asset transfer
6 under section 1932 (relating to voluntary transfer of
7 corporate assets) shall not require the approval of the
8 shareholders of the corporation for adoption by the
9 corporation.

10 § 2921. Corporate name.

11 * * *

12 (b) Additional names permitted.--The provisions of section
13 [1303(a) (relating to corporate name)] 202 (relating to
14 requirements for names generally) shall not prohibit the use of
15 a name of a professional corporation if the name contains and is
16 restricted to the name or the last name of one or more of the
17 present, prospective or former shareholders or of individuals
18 who were associated with a predecessor or whose individual name
19 or names appeared in the name of the predecessor. The name may
20 also contain:

- 21 (1) the word "and" or any symbol or substitute therefor;
22 (2) the word "associates";
23 (3) the term "P.C."; or
24 (4) any or all of the words or terms in paragraphs (1),
25 (2) and (3).

26 § 3301. Application and effect of chapter.

27 * * *

28 (c) Laws applicable to benefit corporations.--Except as
29 otherwise provided in this chapter, Part I (relating to
30 preliminary provisions) and this subpart shall apply generally

1 to benefit corporations. The specific provisions of this chapter
2 shall control over the general provisions of Part I and this
3 subpart. A benefit corporation may be simultaneously subject to
4 this chapter and one or more other chapters of this article.

5 * * *

6 § 3304. Election of benefit corporation status.

7 * * *

8 (b) Fundamental transactions.--If an association that is not
9 a benefit corporation is a party to a merger[, consolidation] or
10 division or is the exchanging association in [a share] an
11 interest exchange, and the surviving, new or any resulting
12 association in the merger, [consolidation,] division or [share]
13 interest exchange is to be a benefit corporation, then the plan
14 of merger, [consolidation,] division or [share] interest
15 exchange shall not be effective unless it is adopted by the
16 [corporation] association by at least the minimum status vote.

17 Section 25. Sections 4121, 4122 and 4123 of Title 15 are
18 repealed:

19 [§ 4121. Admission of foreign corporations.

20 (a) General rule.--A foreign business corporation, before
21 doing business in this Commonwealth, shall procure a certificate
22 of authority to do so from the Department of State, in the
23 manner provided in this subchapter. A foreign business
24 corporation shall not be denied a certificate of authority by
25 reason of the fact that the laws of the jurisdiction governing
26 its incorporation and internal affairs differ from the laws of
27 this Commonwealth.

28 (b) Qualification under former statutes.--If a foreign
29 corporation for profit was on March 19, 1966, admitted to do
30 business in this Commonwealth by the filing of a power of

1 attorney and statement under the act of June 8, 1911 (P.L.710,
2 No.283), the power of attorney and statement shall be deemed an
3 approved application for a certificate of authority issued under
4 this subchapter and the corporation shall be deemed a holder of
5 the certificate. The corporation shall include in its initial
6 application, if any, for an amended certificate of authority
7 under this subchapter the information required by this
8 subchapter to be set forth in an application for a certificate
9 of authority. A certificate of authority issued under the former
10 provisions of the Business Corporation Law of 1933 shall be
11 deemed to be issued under this subchapter, and the certificate
12 of authority shall be deemed not to contain any reference to the
13 kind of business that the corporation proposes to do in this
14 Commonwealth.

15 (c) Foreign insurance corporations.--A foreign insurance
16 corporation shall not be required to procure a certificate of
17 authority under this subchapter.

18 § 4122. Excluded activities.

19 (a) General rule.--Without excluding other activities that
20 may not constitute doing business in this Commonwealth, a
21 foreign business corporation shall not be considered to be doing
22 business in this Commonwealth for the purposes of this
23 subchapter by reason of carrying on in this Commonwealth any one
24 or more of the following acts:

25 (1) Maintaining or defending any action or
26 administrative or arbitration proceeding or effecting the
27 settlement thereof or the settlement of claims or disputes.

28 (2) Holding meetings of its directors or shareholders or
29 carrying on other activities concerning its internal affairs.

30 (3) Maintaining bank accounts.

1 (4) Maintaining offices or agencies for the transfer,
2 exchange and registration of its securities or appointing and
3 maintaining trustees or depositaries with relation to its
4 securities.

5 (5) Effecting sales through independent contractors.

6 (6) Soliciting or procuring orders, whether by mail or
7 through employees or agents or otherwise, and maintaining
8 offices therefor, where the orders require acceptance without
9 this Commonwealth before becoming binding contracts.

10 (7) Creating as borrower or lender, acquiring or
11 incurring, obligations or mortgages or other security
12 interests in real or personal property.

13 (8) Securing or collecting debts or enforcing any rights
14 in property securing them.

15 (9) Transacting any business in interstate or foreign
16 commerce.

17 (10) Conducting an isolated transaction completed within
18 a period of 30 days and not in the course of a number of
19 repeated transactions of like nature.

20 (11) Inspecting, appraising and acquiring real estate
21 and mortgages and other liens thereon and personal property
22 and security interests therein, and holding, leasing,
23 conveying and transferring them, as fiduciary or otherwise.

24 (b) Exceptions.--The specification of activities in
25 subsection (a) does not establish a standard for activities that
26 may subject a foreign business corporation to:

27 (1) Service of process under any statute or general
28 rule.

29 (2) Taxation by the Commonwealth or any political
30 subdivision thereof.

1 § 4123. Requirements for foreign corporation names.

2 (a) General rule.--The Department of State shall not issue a
3 certificate of authority to any foreign business corporation
4 that, except as provided in subsection (b), has a name that is
5 rendered unavailable for use by a domestic business corporation
6 by any provision of section 1303(a), (b) or (c) (relating to
7 corporate name), except subsection (c)(1)(ii) thereof (relating
8 to banking names).

9 (b) Exceptions.--

10 (1) The provisions of section 1303(b) (relating to
11 duplicate use of names) shall not prevent the issuance of a
12 certificate of authority to a foreign business corporation
13 setting forth a name that is not distinguishable upon the
14 records of the department from the name of any other domestic
15 or foreign corporation for profit or corporation not-for-
16 profit, or of any corporation or other association then
17 registered under 54 Pa.C.S. Ch. 5 (relating to corporate and
18 other association names) or to any name reserved or
19 registered as provided in this part, if the foreign business
20 corporation applying for a certificate of authority files in
21 the department a resolution of its board of directors
22 adopting a fictitious name for use in transacting business in
23 this Commonwealth, which fictitious name is distinguishable
24 upon the records of the department from the name of the other
25 corporation or other association or from any name reserved or
26 registered as provided in this part and that is otherwise
27 available for use by a domestic business corporation.

28 (2) The provisions of section 1303(c) (relating to
29 required approvals or conditions) shall not prevent the
30 issuance of a certificate of authority to a foreign business

1 corporation setting forth a name that is prohibited by that
2 subsection if the foreign business corporation applying for a
3 certificate of authority files in the department a resolution
4 of its board of directors adopting a fictitious name for use
5 in transacting business in this Commonwealth that is
6 available for use by a domestic business corporation.]

7 Section 26. Section 4124 of Title 15 is amended to read:

8 § 4124. [Application for a certificate of authority.]

9 Advertisement of registration to do business.

10 [(a) General rule.--An application for a certificate of
11 authority shall be executed by the foreign business corporation
12 and shall set forth:

13 (1) The name of the corporation.

14 (2) The name of the jurisdiction under the laws of which
15 it is incorporated.

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

19 (4) Subject to section 109 (relating to name of
20 commercial registered office provider in lieu of registered
21 address), the address, including street and number, if any,
22 of its proposed registered office in this Commonwealth.

23 (5) A statement that it is a corporation incorporated
24 for a purpose or purposes involving pecuniary profit,
25 incidental or otherwise.

26 (b) Advertisement.--]A foreign business corporation shall
27 officially publish notice of its intention to [apply or its
28 application for a certificate of authority] register to do
29 business or its registration to do business in this Commonwealth
30 under Chapter 4 (relating to foreign associations). The notice

1 may appear prior to or after the day on which [application is
2 made to the Department of State] a registration statement is
3 delivered to the department for filing and shall set forth
4 briefly:

5 (1) A statement that the corporation will [apply or has
6 applied for a certificate of authority under the provisions
7 of the Business Corporation Law of 1988] register or has
8 registered to do business in this Commonwealth under Chapter
9 4.

10 (2) The name of the corporation and [of the jurisdiction
11 under the laws of which it is incorporated] its jurisdiction
12 of formation.

13 (3) The address, including street and number, if any, of
14 its principal office under the laws of [the jurisdiction in
15 which it is incorporated] its jurisdiction of formation.

16 (4) Subject to section 109, the address, including
17 street and number, if any, of its proposed registered office
18 in this Commonwealth.

19 (c) [Filing.--The application for a certificate of authority
20 shall be filed in the Department of State.] (Reserved).

21 (d) [Cross reference.--See section 134 (relating to
22 docketing statement).] (Reserved).

23 Section 27. Sections 4125, 4126, 4127, 4128 of Title 15 are
24 repealed:

25 [§ 4125. Issuance of certificate of authority.

26 Upon the filing of the application for a certificate of
27 authority, the foreign business corporation shall be deemed to
28 hold a certificate of authority to do business in this
29 Commonwealth.

30 § 4126. Amended certificate of authority.

1 (a) General rule.--After receiving a certificate of
2 authority, a qualified foreign business corporation may, subject
3 to the provisions of this subchapter, change or correct any of
4 the information set forth in its application for a certificate
5 of authority or previous filings under this section by filing in
6 the Department of State an application for an amended
7 certificate of authority. The application shall be executed by
8 the corporation and shall state:

9 (1) The name under which the applicant corporation
10 currently holds a certificate of authority to do business in
11 this Commonwealth.

12 (2) Subject to section 109 (relating to name of
13 commercial registered office provider in lieu of registered
14 address), the address, including street and number, if any,
15 of its registered office in this Commonwealth.

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

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

20 (i) the change of name reflects a change effected in
21 the jurisdiction of incorporation; or

22 (ii) documents complying with section 4123(b)
23 (relating to exceptions) accompany the application.

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

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

30 § 4127. Merger, consolidation or division of qualified foreign

1 corporations.

2 (a) General rule.--Whenever a qualified foreign business
3 corporation is a nonsurviving party to a statutory merger,
4 consolidation or division permitted by the laws of the
5 jurisdiction under which it is incorporated, the corporation or
6 other association surviving the merger, or the new corporation
7 or other association resulting from the consolidation or
8 division, as the case may be, shall file in the department a
9 statement of merger, consolidation or division, which shall be
10 executed by the surviving or new corporation or other
11 association and shall set forth:

12 (1) The name of each nonsurviving qualified foreign
13 business corporation.

14 (2) The name of the jurisdictions under the laws of
15 which each nonsurviving qualified foreign business
16 corporation was incorporated.

17 (3) The date on which each nonsurviving qualified
18 foreign business corporation received a certificate of
19 authority to do business in this Commonwealth.

20 (4) A statement that the corporate existence of each
21 nonsurviving qualified foreign business corporation has been
22 terminated by merger, consolidation or division, as the case
23 may be.

24 (5) In the case of a merger, consolidation or division
25 in which any of the new or resulting associations is a
26 corporation, or if the surviving corporation in a merger was
27 a nonqualified foreign business corporation prior to the
28 merger, the statements on the part of the surviving or each
29 new or resulting corporation required by section 4124(a)
30 (relating to application for a certificate of authority).

1 (b) Effect of filing.--The filing of the statement shall
2 operate, as of the effective date of the merger, consolidation
3 or division, to cancel the certificate of authority of each
4 nonsurviving constituent corporation that was a qualified
5 foreign business corporation and to qualify the surviving, new
6 or resulting corporations, under this subchapter. If the
7 surviving, new or resulting corporations do not desire to
8 continue as qualified foreign business corporations, they may
9 thereafter withdraw in the manner provided by section 4129
10 (relating to application for termination of authority).

11 (c) Surviving qualified foreign corporations.--It shall not
12 be necessary for a surviving corporation that was a qualified
13 foreign business corporation to effect any filing under this
14 subchapter with respect to a merger or division or to procure an
15 amended certificate of authority to do business in this
16 Commonwealth unless the name of the corporation is changed by
17 the merger or division.

18 (d) Cross references.--See sections 134 (relating to
19 docketing statement) and 135 (relating to requirements to be met
20 by filed documents).

21 § 4128. Revocation of certificate of authority.

22 (a) General rule.--Whenever the Department of State finds
23 that a qualified foreign business corporation has failed to
24 secure an amended certificate of authority as required by this
25 subchapter after changing its name, or has failed or refused to
26 appear by its proper representatives, or otherwise to comply
27 with any subpoena issued by any court having jurisdiction of the
28 subject matter, or to produce books, papers, records or
29 documents as required by a subpoena, or is violating any of the
30 laws of this Commonwealth, or that its articles have been

1 revoked or voided by its jurisdiction of incorporation, the
2 department shall give notice and opportunity for hearing by
3 registered or certified mail to the corporation that the default
4 exists and that its certificate of authority, including any
5 amendments thereof, will be revoked unless the default is cured
6 within 30 days after the mailing of the notice. If the default
7 is not cured within the period of 30 days, the department shall
8 revoke the certificate of authority, including any amendments
9 thereof, of the foreign business corporation. Upon revoking the
10 certificate of authority, the department shall mail to the
11 corporation, at its registered office in this Commonwealth, a
12 certificate of revocation.

13 (b) Effect of revocation.--Upon the issuance of the
14 certificate of revocation, the authority of the corporation to
15 do business in this Commonwealth shall cease, and the
16 corporation shall not thereafter do any business in this
17 Commonwealth unless it applies for and receives a new
18 certificate of authority.

19 (c) Exception.--Subsections (a) and (b) shall not apply to a
20 foreign insurance corporation.]

21 Section 28. Section 4129 of Title 15 is amended to read:

22 § 4129. [Application for] Advertisement of termination of
23 [authority] registration to do business.

24 [(a) General rule.--Any qualified foreign business
25 corporation may withdraw from doing business in this
26 Commonwealth and surrender its certificate of authority by
27 filing in the Department of State an application for termination
28 of authority, executed by the corporation, which shall set
29 forth:

30 (1) The name of the corporation and, subject to section

1 109 (relating to name of commercial registered office
2 provider in lieu of registered address), the address,
3 including street and number, if any, of its last registered
4 office in this Commonwealth.

5 (2) The name of the jurisdiction under the laws of which
6 it is incorporated.

7 (3) The date on which it received a certificate of
8 authority to do business in this Commonwealth.

9 (4) A statement that it surrenders its certificate of
10 authority to do business in this Commonwealth.

11 (5) A statement that notice of its intention to withdraw
12 from doing business in this Commonwealth was mailed by
13 certified or registered mail to each municipal corporation in
14 which the registered office or principal place of business of
15 the corporation in this Commonwealth is located, and that the
16 official publication required by subsection (b) has been
17 effected.

18 (6) The post office address, including street and
19 number, if any, to which process may be sent in an action or
20 proceeding upon any liability incurred before the filing of
21 the application for termination of authority.]

22 (b) Advertisement.--A [qualified] registered foreign
23 business corporation shall, before filing [an application for
24 termination of authority] a statement under section 415
25 (relating to voluntary withdrawal of registration), officially
26 publish and mail a notice of its intention to withdraw from
27 doing business in this Commonwealth in a manner similar to that
28 required by section 1975(b) (relating to notice to creditors and
29 taxing authorities). The notice shall set forth [briefly]:

30 (1) The name of the corporation and [the jurisdiction

1 under the laws of which it is incorporated] its jurisdiction
2 of formation.

3 (2) The address, including street and number, if any, of
4 its principal office under the laws of its jurisdiction of
5 [incorporation] formation.

6 (3) Subject to section 109, the address, including
7 street and number, if any, of its last registered office in
8 this Commonwealth.

9 (c) [Filing.--The application for termination of authority
10 and the certificates or statement required by section 139
11 (relating to tax clearance of certain fundamental transactions)
12 shall be filed in the department. See section 134 (relating to
13 docketing statement).] (Reserved).

14 (d) [Effect of filing.--Upon the filing of the application
15 for termination of authority, the authority of the corporation
16 to do business in this Commonwealth shall cease. The termination
17 of authority shall not affect any action or proceeding pending
18 at the time thereof or affect any right of action arising with
19 respect to the corporation before the filing of the application
20 for termination of authority. Process against the corporation in
21 an action upon any liability incurred before the filing of the
22 application for termination of authority may be served as
23 provided in 42 Pa.C.S. Ch. 53 (relating to bases of jurisdiction
24 and interstate and international procedure) or as otherwise
25 provided or prescribed by law.] (Reserved).

26 Section 29. Sections 4130, 4131, 4141, 4142, 4143, 4144 and
27 Subchapter D of Chapter 41 of Title 15 are repealed:

28 [§ 4130. Change of address after withdrawal.

29 (a) General rule.--Any foreign business corporation that has
30 withdrawn from doing business in this Commonwealth, or its

1 successor in interest, may, from time to time, change the
2 address to which process may be sent in an action upon any
3 liability incurred before the filing of an application for
4 termination of authority by filing in the Department of State of
5 a statement of change of address by withdrawn corporation
6 executed by the corporation, setting forth:

7 (1) The name of the withdrawn corporation and, if the
8 statement is filed by a successor in interest, the name and
9 capacity of the successor.

10 (2) The name of the jurisdiction under the laws of which
11 the corporation filing the statement is incorporated.

12 (3) The former post office address, including street and
13 number, if any, of the withdrawn corporation as of record in
14 the department.

15 (4) The new post office address, including street and
16 number, if any, of the withdrawn corporation or its
17 successor.

18 (b) Cross reference.--See section 134 (relating to docketing
19 statement).

20 § 4131. Registration of name.

21 (a) General rule.--A nonqualified foreign business
22 corporation may register its name under 54 Pa.C.S. Ch. 5
23 (relating to corporate and other association names) if the name
24 is available for use by a qualified foreign business corporation
25 under section 4123 (relating to requirements for foreign
26 corporation names), by filing in the Department of State an
27 application for registration of name, executed by the
28 corporation, which shall set forth:

29 (1) The name of the corporation.

30 (2) The address, including street and number, if any, of

1 the corporation.

2 (b) Annual renewal.--A corporation that has in effect a
3 registration of its corporate name may renew the registration
4 from year to year by annually filing an application for renewal
5 setting forth the facts required to be set forth in an original
6 application for registration. A renewal application may be filed
7 between October 1 and December 31 in each year and shall extend
8 the registration for the following calendar year.

9 (c) Cross reference.--See section 134 (relating to docketing
10 statement).

11 § 4141. Penalty for doing business without certificate of
12 authority.

13 (a) Right to bring actions or proceedings suspended.--A
14 nonqualified foreign business corporation doing business in this
15 Commonwealth within the meaning of Subchapter B (relating to
16 qualification) shall not be permitted to maintain any action or
17 proceeding in any court of this Commonwealth until the
18 corporation has obtained a certificate of authority. Nor, except
19 as provided in subsection (b), shall any action or proceeding be
20 maintained in any court of this Commonwealth by any successor or
21 assignee of the corporation on any right, claim or demand
22 arising out of the doing of business by the corporation in this
23 Commonwealth until a certificate of authority has been obtained
24 by the corporation or by a corporation that has acquired all or
25 substantially all of its assets.

26 (b) Contracts, property and defense against actions
27 unaffected.--The failure of a foreign business corporation to
28 obtain a certificate of authority to transact business in this
29 Commonwealth shall not impair the validity of any contract or
30 act of the corporation, shall not prevent the corporation from

1 defending any action in any court of this Commonwealth and shall
2 not render escheatable any of its real or personal property.

3 § 4142. General powers and duties of qualified foreign
4 corporations.

5 (a) General rule.--A qualified foreign business corporation,
6 so long as its certificate of authority is not revoked, shall
7 enjoy the same rights and privileges as a domestic business
8 corporation, but no more, and, except as in this subpart
9 otherwise provided, shall be subject to the same liabilities,
10 restrictions, duties and penalties now in force or hereafter
11 imposed upon domestic business corporations, to the same extent
12 as if it had been incorporated under this subpart.

13 (b) Agricultural lands.--Interests in agricultural land
14 shall be subject to the restrictions of, and escheatable as
15 provided by, the act of April 6, 1980 (P.L.102, No.39), referred
16 to as the Agricultural Land Acquisition by Aliens Law.

17 (c) Foreign insurance corporations.--A foreign insurance
18 corporation shall, insofar as it is engaged in the business of
19 writing insurance or reinsurance as principal, be subject to the
20 laws of this Commonwealth regulating the business of insurance
21 in lieu of the provisions of subsection (a).

22 § 4143. General powers and duties of nonqualified foreign
23 corporations.

24 (a) Acquisition of real and personal property.--Every
25 nonqualified foreign business corporation may acquire, hold,
26 mortgage, lease and transfer real and personal property in this
27 Commonwealth in the same manner and subject to the same
28 limitations as a qualified foreign business corporation.

29 (b) Duties.--Except as provided in section 4141(a) (relating
30 to right to bring actions suspended), a nonqualified foreign

1 business corporation doing business in this Commonwealth within
2 the meaning of Subchapter B (relating to qualification) shall be
3 subject to the same liabilities, restrictions, duties and
4 penalties now or hereafter imposed upon a qualified foreign
5 business corporation.

6 § 4144. Registered office of qualified foreign corporations.

7 (a) General rule.--Subject to the provisions of section
8 1507(c) (relating to alternative procedure), every qualified
9 foreign business corporation shall have, and continuously
10 maintain, in this Commonwealth a registered office, which may
11 but need not be the same as its place of business in this
12 Commonwealth.

13 (b) Change.--A qualified foreign business corporation may,
14 from time to time, change the address of its registered office
15 in the manner provided by section 1507(b) (relating to statement
16 of change of registered office).

17 SUBCHAPTER D

18 DOMESTICATION

19 Sec.

20 4161. Domestication.

21 4162. Effect of domestication.

22 § 4161. Domestication.

23 (a) General rule.--Any qualified foreign business
24 corporation may become a domestic business corporation by filing
25 in the Department of State articles of domestication. The
26 articles of domestication, upon being filed in the department,
27 shall constitute the articles of the domesticated foreign
28 corporation, and it shall thereafter continue as a corporation
29 which shall be a domestic business corporation subject to this
30 subpart.

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

4 (1) The name of the corporation. If the name is in a
5 foreign language, it shall be set forth in Roman letters or
6 characters or Arabic or Roman numerals. If the name is one
7 that is rendered unavailable by any provision of section
8 1303(b) or (c) (relating to corporate name), the corporation
9 shall adopt, in accordance with any procedures for changing
10 the name of the corporation that are applicable prior to the
11 domestication of the corporation, and shall set forth in the
12 articles of domestication an available name.

13 (2) Subject to section 109 (relating to name of
14 commercial registered office provider in lieu of registered
15 address), the address, including street and number, if any,
16 of its registered office in this Commonwealth.

17 (3) A statement that upon domestication the corporation
18 will be subject to the domestic corporation provisions of the
19 Business Corporation Law of 1988 and, if desired, a brief
20 statement of the purpose or purposes for which it is to be
21 domesticated which shall be a purpose or purposes for which a
22 domestic business corporation may be incorporated under
23 Article B (relating to domestic business corporations
24 generally) and which may consist of or include a statement
25 that the corporation shall have unlimited power to engage in
26 and to do any lawful act concerning any or all lawful
27 business for which corporations may be incorporated under the
28 Business Corporation Law of 1988.

29 (4) The term for which upon domestication it is to
30 exist, if not perpetual.

1 (5) Any desired provisions relating to the manner and
2 basis of reclassifying the shares of the corporation.

3 (6) A statement that the filing of articles of
4 domestication and, if desired, the renunciation of the
5 original charter or articles of the corporation has been
6 authorized (unless its charter or other organic documents
7 require a greater vote) by a majority of the votes cast by
8 all shareholders entitled to vote thereon and, if any class
9 of shares is entitled to vote thereon as a class, a majority
10 of the votes cast in each class vote.

11 (7) Any provisions desired providing special treatment
12 of shares held by any shareholder or group of shareholders if
13 the laws of the jurisdiction under which the corporation was
14 incorporated prior to its domestication permit such special
15 treatment.

16 (8) Any other provisions authorized by Article B to be
17 set forth in the original articles.

18 (c) Cross references.--See sections 134 (relating to
19 docketing statement) and 135 (relating to requirements to be met
20 by filed documents).

21 § 4162. Effect of domestication.

22 (a) General rule.--As a domestic business corporation, the
23 domesticated corporation shall no longer be a foreign business
24 corporation for the purposes of this subpart and shall, instead,
25 be a domestic business corporation with all the powers and
26 privileges and all the duties and limitations granted and
27 imposed upon domestic business corporations. In all other
28 respects, the domesticated corporation shall be deemed to be the
29 same corporation as it was prior to the domestication without
30 any change in or effect on its existence. Without limiting the

1 generality of the previous sentence, the domestication shall not
2 be deemed to have affected in any way:

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

5 (2) the liability of the corporation for its debts,
6 obligations, penalties and public accounts due the
7 Commonwealth;

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

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

13 (b) Reclassification of shares.--The shares of the
14 domesticated corporation shall be unaffected by the
15 domestication except to the extent, if any, reclassified in the
16 articles of domestication.]

17 Section 30. Sections 5103(a) introductory paragraph and the
18 definitions of "articles," "foreign nonprofit corporation,"
19 "nonqualified foreign corporation" and "qualified foreign
20 corporation" or "qualified foreign nonprofit corporation" are
21 amended to read:

22 § 5103. Definitions.

23 (a) General definitions.--Subject to additional definitions
24 contained in subsequent provisions of this subpart that are
25 applicable to specific provisions of this subpart, the following
26 words and phrases when used in Part I (relating to preliminary
27 provisions) or in this subpart shall have the meanings given to
28 them in this section unless the context clearly indicates
29 otherwise:

30 * * *

1 "Articles." The original articles of incorporation, all
2 amendments thereof, and any other articles, statements or
3 certificates permitted or required to be filed in the Department
4 of State by sections 108 (relating to change in location or
5 status of registered office provided by agent) and 138 (relating
6 to statement of correction), Chapter 3 (relating to entity
7 transactions) or this subpart and including what have heretofore
8 been designated by law as certificates of incorporation or
9 charters. If an amendment of the articles or [articles of merger
10 or division made in the manner permitted by this subpart] a
11 statement filed under Chapter 3 restates articles in their
12 entirety [or if there are articles of consolidation, conversion
13 or domestication], thenceforth the "articles" shall not include
14 any prior documents and any certificate issued by the department
15 with respect thereto shall so state.

16 * * *

17 "Foreign nonprofit corporation." A foreign corporation not-
18 for-profit or other entity subject to Chapter 61 (relating to
19 foreign nonprofit corporations), whether or not required to
20 [qualify thereunder] register under Chapter 4 (relating to
21 foreign associations).

22 * * *

23 ["Nonqualified foreign corporation" or "nonqualified foreign
24 nonprofit corporation." A foreign corporation not-for-profit
25 that is not a qualified foreign corporation, as defined in this
26 section.]

27 * * *

28 ["Qualified foreign corporation" or "qualified foreign
29 nonprofit corporation." A foreign corporation not-for-profit
30 authorized under Chapter 61 (relating to foreign nonprofit

1 corporations) to do business in this Commonwealth.]

2 * * *

3 Section 31. Section 5106 of Title 15 is amended to read:

4 § 5106. Uniform application of subpart.

5 (a) General rule.--Except as provided in subsection (b),
6 this [subpart] title and its amendments are intended to provide
7 uniform rules for the governance and regulation of the affairs
8 of nonprofit corporations and of their officers, directors and
9 members and of members of other bodies, regardless of the date
10 or manner of incorporation or qualification, or of the issuance
11 of any evidences of membership in or shares of a nonprofit
12 corporation.

13 (b) Exceptions.--

14 (1) Unless expressly provided otherwise in any amendment
15 to this [subpart] title, the amendment shall take effect only
16 prospectively.

17 (2) Any existing corporation lawfully using a name or,
18 as a part of its name, a word that could not be used as or
19 included in the name of a corporation subsequently
20 incorporated or qualified under this [subpart] title may
21 continue to use the name or word as part of its name if the
22 use or inclusion of the word or name was lawful when first
23 adopted by the corporation in this Commonwealth.

24 (3) Subsection (a) shall not adversely affect the rights
25 specifically provided for or saved in this subpart,
26 including, without limiting the generality of the foregoing,
27 the provisions of section [5952(d) (relating to proposal and
28 adoption of plan of division)] 363 (relating to approval of
29 division).

30 (4) Nothing in this [subpart] title shall be deemed to

1 repeal or supersede any provision in section 7 of the act of
2 April 26, 1855 (P.L.328, No.347), entitled "An act relating
3 to Corporations and to Estates held for Corporate, Religious
4 and Charitable uses."

5 Section 32. Sections 5303, 5304 and 5305 of Title 15 are
6 repealed:

7 [§ 5303. Corporate name.

8 (a) General rule.--The corporate name may be in any
9 language, but must be expressed in Roman letters or characters
10 or Arabic or Roman numerals.

11 (b) Duplicate use of names.--The corporate name shall be
12 distinguishable upon the records of the Department of State
13 from:

14 (1) The name of any other domestic corporation for
15 profit or not-for-profit which is either in existence or for
16 which articles of incorporation have been filed but have not
17 yet become effective, or of any foreign corporation for
18 profit or not-for-profit which is either authorized to do
19 business in this Commonwealth or for which an application for
20 a certificate of authority has been filed but which has not
21 yet become effective, or the name of any association
22 registered at any time under 54 Pa.C.S. Ch. 5 (relating to
23 corporate and other association names), unless the other
24 association:

25 (i) has stated that it is about to change its name,
26 or to cease to do business, or is being wound up, or is a
27 foreign association about to withdraw from doing business
28 in this Commonwealth, and the statement and a written
29 consent to the adoption of the name executed by the other
30 association is filed in the Department of State;

1 (ii) has filed with the Department of Revenue a
2 certificate of out of existence, or has failed for a
3 period of three successive years to file with the
4 Department of Revenue a report or return required by law
5 and the fact of such failure has been certified by the
6 Department of Revenue to the Department of State;

7 (iii) has abandoned its name under the laws of its
8 jurisdiction of incorporation, by amendment, merger,
9 consolidation, division, expiration, dissolution or
10 otherwise, without its name being adopted by a successor
11 in a merger, consolidation, division or otherwise, and an
12 official record of that fact, certified as provided by 42
13 Pa.C.S. § 5328 (relating to proof of official records),
14 is presented by any person to the department; or

15 (iv) has had the registration of its name under 54
16 Pa.C.S. Ch. 5 terminated and, if the termination was
17 effected by operation of 54 Pa.C.S. § 504 (relating to
18 effect of failure to make filings), the application for
19 the use of the name is accompanied by a verified
20 statement stating that at least 30 days' written notice
21 of intention to appropriate the name was given to the
22 delinquent association at its last known place of
23 business and that, after diligent search by the affiant,
24 the affiant believes the association to be out of
25 existence.

26 (2) A name the exclusive right to which is at the time
27 reserved by any other person whatsoever in the manner
28 provided by statute. A name shall be rendered unavailable for
29 corporate use by reason of the filing in the Department of
30 State of any assumed or fictitious name required by 54

1 Pa.C.S. Ch. 3 (relating to fictitious names) to be filed in
2 the department only if and to the extent expressly so
3 provided in that chapter.

4 (c) Required approvals or conditions.--

5 (1) The corporate name shall not imply that the
6 corporation is:

7 (i) A governmental agency of the Commonwealth or of
8 the United States.

9 (ii) A bank, bank and trust company, savings bank,
10 private bank or trust company, as defined in the act of
11 November 30, 1965 (P.L.847, No.356), known as the Banking
12 Code of 1965.

13 (iii) An insurance company.

14 (iv) A public utility as defined in 66 Pa.C.S. § 102
15 (relating to definitions).

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

18 (2) The corporate name shall not contain:

19 (i) The word "college," "university" or "seminary"
20 when used in such a way as to imply that it is an
21 educational institution conforming to the standards and
22 qualifications prescribed by the State Board of
23 Education, unless there is submitted a certificate from
24 the Department of Education certifying that the
25 corporation or proposed corporation is entitled to use
26 that designation.

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

29 (iii) The words "engineer" or "engineering" or
30 "surveyor" or "surveying" or any other word implying that

1 any form of the practice of engineering or surveying as
2 defined in the act of May 23, 1945 (P.L.913, No.367),
3 known as the Professional Engineers Registration Law, is
4 provided unless at least one of the incorporators of a
5 proposed corporation or the directors of the existing
6 corporation has been properly registered with the State
7 Registration Board for Professional Engineers in the
8 practice of engineering or surveying and there is
9 submitted to the department a certificate from the board
10 to that effect.

11 (iv) The words "Young Men's Christian Association"
12 or any other words implying that the corporation is
13 affiliated with the State Young Men's Christian
14 Association of Pennsylvania unless the corporation is
15 incorporated for the purpose of the improvement of the
16 spiritual, mental, social and physical condition of young
17 people, by the support and maintenance of lecture rooms,
18 libraries, reading rooms, religious and social meetings,
19 gymnasiums, and such other means and services as may
20 conduce to the accomplishment of that object, according
21 to the general rules and regulations of such State
22 association.

23 (v) The words "architect" or "architecture" or any
24 other word implying that any form of the practice of
25 architecture as defined in the act of December 14, 1982
26 (P.L.1227, No.281), known as the Architects Licensure
27 Law, is provided unless at least one of the incorporators
28 of a proposed corporation or the directors of the
29 existing corporation has been properly registered with
30 the Architects Licensure Board in the practice of

1 architecture and there is submitted to the department a
2 certificate from the board to that effect.

3 (vi) The word "cooperative" or an abbreviation
4 thereof unless the corporation is a cooperative
5 corporation.

6 (d) Other rights unaffected.--This section shall not
7 abrogate or limit the law as to unfair competition or unfair
8 practices, nor derogate from the common law, the principles of
9 equity or the provisions of Title 54 (relating to names) with
10 respect to the right to acquire and protect trade names.
11 Subsection (b) shall not apply if the applicant files in the
12 department a certified copy of a final order of a court of
13 competent jurisdiction establishing the prior right of the
14 applicant to the use of a name in this Commonwealth.

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

27 § 5304. Required name changes by senior corporations.

28 (a) Adoption of new name upon reactivation.--Where a
29 corporate name is made available on the basis that the
30 corporation or other association that formerly registered the

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

15 (b) Enforcement of undertaking to release name.--If a
16 corporation has used a name that is not distinguishable upon the
17 records of the Department of State from the name of another
18 corporation or other association as permitted by section 5303(b)
19 (1) (relating to duplicate use of names) and the other
20 corporation or other association continues to use its name in
21 this Commonwealth and does not change its name, cease to do
22 business, be wound up, or withdraw as it proposed to do in its
23 consent or change its name as required by subsection (a), any
24 court having jurisdiction may enjoin the other corporation or
25 other association from continuing to use its name or a name that
26 is not distinguishable therefrom, upon the application of:

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

30 (2) upon the application of any person adversely

1 affected.

2 § 5305. Reservation of corporate name.

3 (a) General rule.--The exclusive right to the use of a
4 corporate name may be reserved by any person. The reservation
5 shall be made by delivering to the Department of State an
6 application to reserve a specified corporate name, executed by
7 the applicant. If the department finds that the name is
8 available for corporate use, it shall reserve the name for the
9 exclusive use of the applicant for a period of 120 days.

10 (b) Transfer of reservation.--The right to exclusive use of
11 a specified corporate name reserved under subsection (a) may be
12 transferred to any other person by delivering to the department
13 a notice of the transfer, executed by the person who reserved
14 the name, and specifying the name and address of the transferee.

15 (c) Cross references.--See sections 134 (relating to
16 docketing statement) and 6131 (relating to registration of
17 name).]

18 Section 33. Sections 5341, 5757 and 5766(c) of Title 15 are
19 amended to read:

20 § 5341. Statement of revival.

21 (a) General rule.--Any nonprofit corporation whose charter
22 or articles have been forfeited by proclamation of the Governor
23 pursuant to section 1704 of the act of April 9, 1929 (P.L.343,
24 No.176), known as The Fiscal Code, or otherwise, or whose
25 corporate existence has expired by reason of any limitation
26 contained in its charter or articles and the failure to effect a
27 timely renewal or extension of its corporate existence, may, at
28 any time by [filing] delivering to the department for filing a
29 statement of revival, procure a revival of its charter or
30 articles, together with all the rights, franchises, privileges

1 and immunities and subject to all of its duties, debts and
2 liabilities that had been vested in and imposed upon the
3 corporation by its charter or articles as last in effect.

4 (b) Contents of statement.--The statement of revival shall
5 be [executed] signed in the name of the forfeited or expired
6 corporation and shall, subject to section 109 (relating to name
7 of commercial registered office provider in lieu of registered
8 address), set forth:

9 (1) The name of the corporation at the time its charter
10 or articles were forfeited or expired and the address,
11 including street and number, if any, of its last registered
12 office.

13 (2) The statute by or under which the corporation was
14 incorporated and the date of incorporation.

15 (3) The name that the corporation adopts as its new name
16 if the adoption of a new name is required by section [5304]
17 207 (relating to required name changes by senior
18 [corporations] associations).

19 (4) The address, including street and number, if any, of
20 its registered office in this Commonwealth.

21 (5) A reference to the proclamation or other action by
22 which its charter or articles were forfeited or a reference
23 to the limitation contained in its expired charter or
24 articles.

25 (6) A statement that the corporate existence of the
26 corporation shall be revived.

27 (7) A statement that the filing of the statement of
28 revival has been authorized by the corporation. Every
29 forfeited or expired corporation may act by its last
30 directors or may elect directors and officers in the manner

1 provided by this subpart for the limited purpose of effecting
2 a filing under this section.

3 (c) Filing and effect.--The statement of revival and, in the
4 case of a forfeited corporation, the clearance certificates
5 required by section 139 (relating to tax clearance of certain
6 fundamental transactions) shall be [filed in the Department of
7 State] delivered to the department for filing. Upon the filing
8 of the statement of revival, the corporation shall be revived
9 with the same effect as if its charter or articles had not been
10 forfeited or expired by limitation. The revival shall validate
11 all contracts and other transactions made and effected within
12 the scope of the articles of the corporation by its
13 representatives during the time when its charter or articles
14 were forfeited or expired to the same effect as if its charter
15 or articles had not been forfeited or expired.

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

19 § 5757. Action by members.

20 (a) General rule.--Except as otherwise provided in this
21 [subpart] title or in a bylaw adopted by the members, whenever
22 any corporate action is to be taken by vote of the members of a
23 nonprofit corporation, it shall be authorized upon receiving the
24 affirmative vote of a majority of the votes cast by the members
25 entitled to vote thereon and, if any members are entitled to
26 vote thereon as a class, upon receiving the affirmative vote of
27 a majority of the votes cast by the members entitled to vote as
28 a class.

29 (b) Changes in required vote.--Whenever a provision of this
30 [subpart] title requires a specified number or percentage of

1 votes of members or of a class of members for the taking of any
2 action, a nonprofit corporation may prescribe in a bylaw adopted
3 by the members that a higher number or percentage of votes shall
4 be required for the action. The number or percentage of members
5 necessary to call a special meeting of members or to petition
6 for the proposal of an amendment of articles under this subpart
7 may not be increased under this subsection. See sections 5504(d)
8 (relating to adoption, amendment and contents of bylaws) and
9 5914(d) (relating to adoption of amendments).

10 (c) Expenses.--Unless otherwise restricted in the articles,
11 the corporation shall pay the reasonable expenses of
12 solicitation of votes, proxies or consents of members by or on
13 behalf of the board of directors or its nominees for election to
14 the board, including solicitation by professional proxy
15 solicitors and otherwise, and may pay the reasonable expenses of
16 a solicitation by or on behalf of other persons.

17 (d) Cross reference.--See section 322 (relating to approval
18 by nonprofit corporation).

19 § 5766. Consent of members in lieu of meeting.

20 * * *

21 (c) [Effectiveness] Notice of action by partial consent.--
22 [An action taken pursuant to subsection (b) shall not become
23 effective until after at least ten days' notice of the action
24 has been given to each member entitled to vote thereon who has
25 not consented thereto.] Unless the bylaws require notice before
26 an action pursuant to subsection (b) takes effect, prompt notice
27 that an action has been taken shall be given to each member
28 entitled to vote on the action that has not consented.

29 Section 34. The heading of Chapter 59 of Title 15 is amended
30 to read:

1 CHAPTER 59

2 [FUNDAMENTAL CHANGES] AMENDMENTS, SALE

3 OF ASSETS AND DISSOLUTION

4 Section 35. The heading of Subchapter C of Chapter 59 of
5 Title 15 is amended to read:

6 SUBCHAPTER C

7 [MERGER, CONSOLIDATION AND] SALE OF ASSETS

8 Section 36. Sections 5921, 5922, 5923, 5924, 5925, 5926,
9 5927, 5928 and 5929 of Title 15 are repealed:

10 [§ 5921. Merger and consolidation authorized.

11 (a) Domestic surviving or new corporation.--Any two or more
12 domestic nonprofit corporations, or any two or more foreign
13 nonprofit corporations, or any one or more domestic nonprofit
14 corporations and any one or more foreign nonprofit corporations,
15 may, in the manner provided in this subchapter, be merged into
16 one of the domestic nonprofit corporations, designated in this
17 subchapter as the surviving corporation, or consolidated into a
18 new corporation to be formed under this subpart, if the foreign
19 corporations are authorized by the laws of the jurisdiction
20 under which they are incorporated to effect a merger or
21 consolidation with a corporation of another jurisdiction.

22 (b) Foreign surviving or new corporation.--Any one or more
23 domestic nonprofit corporations, and any one or more foreign
24 nonprofit corporations, may, in the manner provided in this
25 subchapter, be merged into one of the foreign nonprofit
26 corporations, designated in this subchapter as the surviving
27 corporation, or consolidated into a new corporation to be
28 incorporated under the laws of the jurisdiction under which one
29 of the foreign nonprofit corporations is incorporated, if the
30 laws of that jurisdiction authorize a merger with or

1 consolidation into a corporation of another jurisdiction.

2 § 5922. Plan of merger or consolidation.

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

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

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

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

12 (ii) in the case of a consolidation, all of the
13 statements required by this subpart to be set forth in
14 restated articles.

15 (3) Such other provisions as are deemed desirable.

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

22 (1) The term of memberships or the amount or kind of
23 securities, obligations, cash, property or rights to be
24 received in exchange for or on conversion of all or any of
25 the memberships in the constituent corporation.

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

28 (3) Any of the terms and conditions of the plan if the
29 change would adversely affect the members of the constituent
30 corporation.

1 (c) Proposal.--Every merger or consolidation shall be
2 proposed in the case of each domestic nonprofit corporation:

3 (1) by the adoption by the board of directors or other
4 body of a resolution approving the plan of merger or
5 consolidation;

6 (2) unless otherwise provided in the articles, by
7 petition of members entitled to cast at least 10% of the
8 votes that all members are entitled to cast thereon, setting
9 forth the proposed plan of merger or consolidation, which
10 petition shall be directed to the board of directors and
11 filed with the secretary of the corporation; or

12 (3) by such other method as may be provided in the
13 bylaws.

14 (d) Submission to members.--Except where the corporation has
15 no members entitled to vote thereon, the board of directors or
16 other body shall direct that the plan be submitted to a vote of
17 the members entitled to vote thereon at a regular or special
18 meeting of the members.

19 (e) Party to plan or transaction.--A corporation,
20 partnership, business trust or other association that approves a
21 plan in its capacity as a member or creditor of a merging or
22 consolidating corporation or that furnishes all or a part of the
23 consideration contemplated by a plan does not thereby become a
24 party to the plan or the merger or consolidation for the
25 purposes of this subchapter.

26 (f) Reference to outside facts.--Any of the terms of a plan
27 of merger or consolidation may be made dependent upon facts
28 ascertainable outside of the plan if the manner in which the
29 facts will operate upon the terms of the plan is set forth in
30 the plan. Such facts may include, without limitation, actions or

1 events within the control of or determinations made by a party
2 to the plan or a representative of a party to the plan.

3 § 5923. Notice of meeting of members.

4 (a) General rule.--Notice in record form of the meeting of
5 members that will act on the proposed plan shall be given to
6 each member of record, whether or not entitled to vote thereon,
7 of each domestic nonprofit corporation that is a party to the
8 merger or consolidation. The notice shall include or be
9 accompanied by a copy of the proposed plan or a summary thereof.
10 The notice shall provide that a copy of the bylaws of the
11 surviving or new corporation will be furnished to any member on
12 request and without cost.

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

15 § 5924. Adoption of plan.

16 (a) General rule.--The plan of merger or consolidation shall
17 be adopted upon receiving the affirmative vote of the members
18 present entitled to cast at least a majority of the votes that
19 all members present are entitled to cast thereon of each of the
20 domestic nonprofit corporations that is a party to the merger or
21 consolidation and, if any class of members is entitled to vote
22 thereon as a class, the affirmative vote of the members present
23 of such class entitled to cast at least a majority of the votes
24 that all members present of such class are entitled to cast
25 thereon.

26 (b) Adoption in absence of voting members.--If a merging or
27 consolidating corporation has no members entitled to vote
28 thereon, or no members entitled to vote thereon other than
29 persons who also constitute the board of directors or other
30 body, a plan of merger or consolidation shall be deemed adopted

1 by the corporation when it has been adopted by the board of
2 directors or other body pursuant to section 5922 (relating to
3 plan of merger or consolidation).

4 (c) Termination of plan.--Prior to the time when a merger or
5 consolidation becomes effective, the merger or consolidation may
6 be terminated pursuant to provisions for termination, if any,
7 set forth in the plan. If articles of merger or consolidation
8 have been filed in the department prior to the termination, a
9 statement under section 5902 (relating to statement of
10 termination) shall be filed in the department.

11 § 5925. Authorization by foreign corporations.

12 The plan of merger or consolidation shall be authorized,
13 adopted or approved by each foreign nonprofit corporation that
14 desires to merge or consolidate in accordance with the laws of
15 the jurisdiction in which it is incorporated and, in the case of
16 a foreign domiciliary corporation, in accordance with the
17 provisions of this subpart to the extent provided by section
18 6145 (relating to applicability of certain safeguards to foreign
19 domiciliary corporations).

20 § 5926. Articles of merger or consolidation.

21 Upon the adoption of the plan of merger or consolidation by
22 the corporations desiring to merge or consolidate, as provided
23 in this subchapter, articles of merger or articles of
24 consolidation, as the case may be, shall be executed by each
25 corporation and shall, subject to section 109 (relating to name
26 of commercial registered office provider in lieu of registered
27 address), set forth:

28 (1) The name and the location of the registered office,
29 including street and number, if any, of the domestic
30 surviving or new corporation or, in the case of a foreign

1 surviving or new corporation, the name of the corporation and
2 its jurisdiction of incorporation, together with either:

3 (i) if a qualified foreign nonprofit corporation,
4 the address, including street and number, if any, of its
5 registered office in this Commonwealth; or

6 (ii) if a nonqualified foreign nonprofit
7 corporation, the address, including street and number, if
8 any, of its principal office under the laws of the
9 jurisdiction in which it is incorporated.

10 (2) The name and address, including street and number,
11 if any, of the registered office of each other domestic
12 nonprofit corporation and qualified foreign nonprofit
13 corporation that is a party to the merger or consolidation.

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

17 (4) The manner in which the plan was adopted by each
18 domestic corporation and, if one or more foreign corporations
19 are parties to the merger or consolidation, the fact that the
20 plan was authorized, adopted or approved, as the case may be,
21 by each of the foreign corporations in accordance with the
22 laws of the jurisdiction in which it is incorporated.

23 (5) Except as provided in section 5901 (relating to
24 omission of certain provisions from filed plans), the plan of
25 merger or consolidation.

26 § 5927. Filing of articles of merger or consolidation.

27 (a) General rule.--The articles of merger or articles of
28 consolidation, as the case may be, and the certificates or
29 statement, if any, required by section 139 (relating to tax
30 clearance of certain fundamental transactions) shall be filed in

1 the Department of State.

2 (b) Cross reference.--See section 134 (relating to docketing
3 statement).

4 § 5928. Effective date of merger or consolidation.

5 Upon the filing of the articles of merger or the articles of
6 consolidation in the department or upon the effective date
7 specified in the plan of merger or consolidation, whichever is
8 later, the merger or consolidation shall be effective. The
9 merger or consolidation of one or more domestic nonprofit
10 corporations into a foreign nonprofit corporation shall be
11 effective according to the provisions of law of the jurisdiction
12 in which the foreign corporation is incorporated, but not until
13 articles of merger or articles of consolidation have been
14 adopted and filed, as provided in this subchapter.

15 § 5929. Effect of merger or consolidation.

16 (a) Single surviving or new corporation.--Upon the merger or
17 consolidation becoming effective, the several corporations
18 parties to the merger or consolidation shall be a single
19 corporation which, in the case of a merger, shall be the
20 corporation designated in the plan of merger as the surviving
21 corporation and, in the case of a consolidation, shall be the
22 new corporation provided for in the plan of consolidation. The
23 separate existence of all corporations parties to the merger or
24 consolidation shall cease, except that of the surviving
25 corporation, in the case of a merger. The surviving or new
26 corporation, as the case may be, if it is a domestic nonprofit
27 corporation, shall not thereby acquire authority to engage in
28 any business or exercise any right that a corporation may not be
29 incorporated under this subpart to engage in or exercise.

30 (b) Property rights.--Except as otherwise provided by order,

1 if any, obtained pursuant to section 5547(b) (relating to
2 nondiversion of certain property), all the property, real,
3 personal and mixed, and franchises of each of the corporations
4 parties to the merger or consolidation, and all debts due on
5 whatever account to any of them, including subscriptions for
6 membership and other choses in action belonging to any of them,
7 shall be deemed to be vested in and shall belong to the
8 surviving or new corporation, as the case may be, without
9 further action, and the title to any real estate, or any
10 interest therein, vested in any of the corporations shall not
11 revert or be in any way impaired by reason of the merger or
12 consolidation. The surviving or new corporation shall
13 thenceforth be responsible for all the liabilities of each of
14 the corporations so merged or consolidated. Liens upon the
15 property of the merging or consolidating corporations shall not
16 be impaired by the merger or consolidation, and any claim
17 existing or action or proceeding pending by or against any of
18 the corporations may be prosecuted to judgment as if the merger
19 or consolidation had not taken place, or the surviving or new
20 corporation may be proceeded against or substituted in its
21 place. Any devise, gift or grant contained in any will or other
22 instrument, in trust or otherwise, made before or after such
23 merger or consolidation, to or for any of the constituent
24 corporations, shall inure to the surviving or new corporation,
25 as the case may be, subject to compliance with the requirements
26 of section 5550 (relating to devises, bequests and gifts after
27 certain fundamental changes).

28 (c) Taxes.--Any taxes, interest, penalties and public
29 accounts of the Commonwealth claimed against any of the merging
30 or consolidating corporations that are settled, assessed or

1 determined prior to or after the merger or consolidation shall
2 be the liability of the surviving or new corporation and,
3 together with interest thereon, shall be a lien against the
4 franchises and property, both real and personal, of the
5 surviving or new corporation.

6 (d) Articles of incorporation.--In the case of a merger, the
7 articles of incorporation of the surviving domestic nonprofit
8 corporation, if any, shall be deemed to be amended to the
9 extent, if any, that changes in its articles are stated in the
10 plan of merger. In the case of a consolidation into a domestic
11 nonprofit corporation, the statements that are set forth in the
12 plan of consolidation, or articles of incorporation set forth
13 therein, shall be deemed to be the articles of incorporation of
14 the new corporation.]

15 Section 37. Section 5930(a) of Title 15 is amended to read:
16 § 5930. Voluntary transfer of corporate assets.

17 (a) General rule.--A sale, lease, exchange or other
18 disposition of all, or substantially all, of the property and
19 assets, with or without goodwill, of a nonprofit corporation, if
20 not made pursuant to Subchapter [D] F of Chapter [19] 3
21 (relating to division), may be made only pursuant to a plan of
22 asset transfer. The property or assets of a direct or indirect
23 subsidiary corporation that is controlled by a parent
24 corporation shall also be deemed the property or assets of the
25 parent corporation for purposes of this subsection. The plan of
26 asset transfer shall set forth the terms and consideration of
27 the sale, lease, exchange or other disposition or may authorize
28 the board of directors or other body to fix any or all of the
29 terms and conditions, including the consideration to be received
30 by the corporation. Any of the terms of the plan may be made

1 dependent upon facts ascertainable outside of the plan if the
2 manner in which the facts will operate upon the terms of the
3 plan is set forth in the plan. The plan of asset transfer shall
4 be proposed and adopted, and may be amended after its adoption
5 and terminated, by a nonprofit corporation in the manner
6 provided in this subchapter for the proposal, adoption,
7 amendment and termination of a plan of merger. A copy or summary
8 of the plan shall be included in, or enclosed with, the notice
9 of the meeting at which members will act on the plan. In order
10 to make effective any plan so adopted, it shall not be necessary
11 to file any articles or other document in the department, but
12 the corporation shall comply with the requirements of section
13 5547(b) (relating to nondiversion of certain property).

14 * * *

15 Section 38. The heading of Subchapter D of Chapter 59 of
16 Title 15 is amended to read:

17 SUBCHAPTER D

18 [DIVISION] (RESERVED)

19 Section 39. Sections 5951, 5952, 5953, 5954, 5955, 5956,
20 5957 and Subchapter E of Chapter 59 and sections 6121, 6122 and
21 6123 of Title 15 are repealed:

22 [§ 5951. Division authorized.

23 (a) Division of domestic corporation.--Any domestic
24 nonprofit corporation may, in the manner provided in this
25 subchapter, be divided into two or more domestic nonprofit
26 corporations incorporated or to be incorporated under this
27 article, or into one or more domestic nonprofit corporations and
28 one or more foreign nonprofit corporations to be incorporated
29 under the laws of another jurisdiction or jurisdictions, or into
30 two or more foreign nonprofit corporations, if the laws of the

1 other jurisdictions authorize the division.

2 (b) Division of foreign corporation.--Any foreign nonprofit
3 corporation may, in the manner provided in this subchapter, be
4 divided into one or more domestic nonprofit corporations to be
5 incorporated under this subpart and one or more foreign
6 nonprofit corporations incorporated or to be incorporated under
7 the laws of another jurisdiction or jurisdictions, or into two
8 or more domestic nonprofit corporations, if the foreign
9 nonprofit corporation is authorized under the laws of the
10 jurisdiction under which it is incorporated to effect a
11 division.

12 (c) Surviving and new corporations.--The corporation
13 effecting a division, if it survives the division, is designated
14 in this subchapter as the surviving corporation. All
15 corporations originally incorporated by a division are
16 designated in this subchapter as new corporations. The surviving
17 corporation, if any, and the new corporation or corporations are
18 collectively designated in this subchapter as the resulting
19 corporations.

20 § 5952. Proposal and adoption of plan of division.

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

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

25 (i) The reclassification of the membership interests
26 or shares of the surviving corporation, if there be one.

27 (ii) The disposition of the membership interests or
28 shares or obligations, if any, of the new corporation or
29 corporations resulting from the division.

30 (2) A statement that the dividing nonprofit corporation

1 will, or will not, survive the division.

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

5 (4) The articles of incorporation required by subsection
6 (b).

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

8 (b) Articles of new corporations.--There shall be included
9 in or annexed to the plan of division:

10 (1) Articles of incorporation, which shall contain all
11 of the statements required by this subpart to be set forth in
12 restated articles, for each of the new domestic nonprofit
13 corporations, if any, resulting from the division.

14 (2) Articles of incorporation, certificates of
15 incorporation or other charter documents for each of the new
16 foreign nonprofit corporations, if any, resulting from the
17 division.

18 (c) Proposal and adoption.--Except as otherwise provided in
19 section 5953 (relating to division without member approval), the
20 plan of division shall be proposed and adopted, and may be
21 amended after its adoption and terminated, by a domestic
22 nonprofit corporation in the manner provided for the proposal,
23 adoption, amendment and termination of a plan of merger in
24 Subchapter C (relating to merger, consolidation and sale of
25 assets) or, if the dividing corporation is a foreign nonprofit
26 corporation, in accordance with the laws of the jurisdiction in
27 which it is incorporated and, in the case of a foreign
28 domiciliary corporation, the provisions of this subpart to the
29 extent provided by section 6145 (relating to applicability of
30 certain safeguards to foreign corporations). There shall be

1 included in or enclosed with the notice of the meeting of
2 members that will act on the plan a copy or summary of the plan.

3 (d) Special requirements.--If any provision of the bylaws of
4 a dividing domestic nonprofit corporation adopted before January
5 1, 1972 shall require for the adoption of a plan of merger or
6 consolidation or a plan involving the sale, lease or exchange of
7 all or substantially all of the property and assets of the
8 corporation a specific number or percentage of votes of
9 directors, members, or members of an other body or other special
10 procedures, the plan of division shall not be adopted without
11 such number or percentage of votes or compliance with such other
12 special procedures.

13 (e) Financial status of resulting corporations.--Unless the
14 plan of division provides that the dividing corporation shall
15 survive the division and that all membership interests or shares
16 or obligations, if any, of all new corporations resulting from
17 the plan shall be owned solely by the surviving corporation, no
18 plan of division may be made effective at a time when the
19 dividing corporation is insolvent or when the division would
20 render any of the resulting corporations insolvent.

21 (f) Rights of holders of indebtedness.--If any debt
22 securities, notes or similar evidences of indebtedness for money
23 borrowed, whether secured or unsecured, indentures or other
24 contracts were issued, incurred or executed by the dividing
25 corporation before January 1, 1972, and have not been amended
26 subsequent to that date, the liability of the dividing
27 corporation thereunder shall not be affected by the division nor
28 shall the rights of the obligees thereunder be impaired by the
29 division, and each of the resulting corporations may be
30 proceeded against or substituted in place of the dividing

1 corporation as joint and several obligors on such liability,
2 regardless of any provision of the plan of division apportioning
3 the liabilities of the dividing corporation.

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

11 § 5953. Division without member approval.

12 Unless otherwise required by its bylaws or by section 5952
13 (relating to proposal and adoption of plan of division), a plan
14 of division that does not alter the state of incorporation of a
15 nonprofit corporation nor amend in any respect the provisions of
16 its articles, except amendments that under section 5914(b)
17 (relating to adoption in absence of voting members) may be made
18 without member action, shall not require the approval of the
19 members of the corporation if the transfers of assets effected
20 by the division, if effected by means of a sale, lease, exchange
21 or other disposition, would not require the approval of members
22 under section 5930 (relating to voluntary transfer of corporate
23 assets).

24 § 5954. Articles of division.

25 Upon the adoption of a plan of division by the corporation
26 desiring to divide, as provided in this subchapter, articles of
27 division shall be executed by the corporation and shall, subject
28 to section 109 (relating to name of commercial registered office
29 provider in lieu of registered address), set forth:

30 (1) The name and the location of the registered office,

1 including street and number, if any, of the dividing domestic
2 nonprofit corporation or, in the case of a dividing foreign
3 nonprofit corporation, the name of the corporation and the
4 jurisdiction in which it is incorporated, together with
5 either:

6 (i) If a qualified foreign nonprofit corporation,
7 the address, including street and number, if any, of its
8 registered office in this Commonwealth.

9 (ii) If a nonqualified foreign nonprofit
10 corporation, the address, including street and number, if
11 any, of its principal office under the laws of that
12 jurisdiction.

13 (2) The statute under which the dividing corporation was
14 incorporated and the date of incorporation.

15 (3) A statement that the dividing corporation will, or
16 will not, survive the division.

17 (4) The name and the address, including street and
18 number, if any, of the registered office of each new domestic
19 nonprofit corporation or qualified foreign nonprofit
20 corporation resulting from the division.

21 (5) If the plan is to be effective on a specified date,
22 the hour, if any, and the month, day and year of the
23 effective date.

24 (6) The manner in which the plan was adopted by the
25 corporation.

26 (7) Except as provided in section 5901 (relating to
27 omission of certain provisions from filed plans), the plan of
28 division.

29 § 5955. Filing of articles of division.

30 (a) General rule.--The articles of division and the

1 certificates or statement, if any, required by section 139
2 (relating to tax clearance of certain fundamental transactions)
3 shall be filed in the Department of State.

4 (b) Cross reference.--See section 134 (relating to docketing
5 statement).

6 § 5956. Effective date of division.

7 Upon the filing of articles of division in the department or
8 upon the effective date specified in the plan of division,
9 whichever is later, the division shall become effective. The
10 division of a domestic nonprofit corporation into one or more
11 foreign nonprofit corporations or the division of a foreign
12 nonprofit corporation shall be effective according to the laws
13 of the jurisdictions where the foreign corporations are or are
14 to be incorporated and, in the case of a foreign domiciliary
15 corporation, the provisions of this subpart to the extent
16 provided by section 6145 (relating to applicability of certain
17 safeguards to foreign domiciliary corporations), but not until
18 articles of division have been adopted and filed as provided in
19 this subchapter.

20 § 5957. Effect of division.

21 (a) Multiple resulting corporations.--Upon the division
22 becoming effective, the dividing corporation shall be subdivided
23 into the distinct and independent resulting corporations named
24 in the plan of division and, if the dividing corporation is not
25 to survive the division, the existence of the dividing
26 corporation shall cease. The resulting corporations, if they are
27 domestic nonprofit corporations, shall not thereby acquire
28 authority to engage in any business or exercise any right that a
29 corporation may not be incorporated under this subpart to engage
30 in or exercise. Any resulting foreign nonprofit corporation that

1 is stated in the articles of division to be a qualified foreign
2 nonprofit corporation shall be a qualified foreign nonprofit
3 corporation under Article C (relating to foreign nonprofit
4 corporations), and the articles of division shall be deemed to
5 be the application for a certificate of authority and the
6 certificate of authority issued thereon of the corporation.

7 (b) Property rights; allocations of assets and
8 liabilities.--

9 (1) Except as otherwise provided by order, if any,
10 obtained pursuant to section 5547(b) (relating to
11 nondiversion of certain property):

12 (i) All the property, real, personal and mixed, and
13 franchises of the dividing corporation, and all debts due
14 on whatever account to it, including subscriptions for
15 membership and other choses in action belonging to it,
16 shall, to the extent allocations of assets are
17 contemplated by the plan of division, be deemed without
18 further action to be allocated to and vested in the
19 resulting corporations on such a manner and basis and
20 with such effect as is specified in the plan, or per
21 capita among the resulting corporations, as tenants in
22 common, if no specification is made in the plan, and the
23 title to any real estate, or interest therein, vested in
24 any of the corporations shall not revert or be in any way
25 impaired by reason of the division.

26 (ii) Upon the division becoming effective, the
27 resulting corporations shall each thenceforth be
28 responsible as separate and distinct corporations only
29 for such liabilities as each corporation may undertake or
30 incur in its own name, but shall be liable for the

1 liabilities of the dividing corporation in the manner and
2 on the basis provided in subparagraphs (iv) and (v).

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

5 (iv) Except as provided in section 5952(f) (relating
6 to proposal and adoption of plan of division), to the
7 extent allocations of liabilities are contemplated by the
8 plan of division, the liabilities of the dividing
9 corporation shall be deemed without further action to be
10 allocated to and become the liabilities of the resulting
11 corporations on such a manner and basis and with such
12 effect as is specified in the plan; and one or more, but
13 less than all, of the resulting corporations shall be
14 free of the liabilities of the dividing corporation to
15 the extent, if any, specified in the plan, if in either
16 case:

17 (A) no fraud on members without voting rights or
18 violation of law shall be effected thereby; and

19 (B) the plan does not constitute a fraudulent
20 transfer under 12 Pa.C.S. Ch. 51 (relating to
21 fraudulent transfers).

22 (v) If the conditions in subparagraph (iv) for
23 freeing one or more of the resulting corporations from
24 the liabilities of the dividing corporation or for
25 allocating some or all of the liabilities of the dividing
26 corporation are not satisfied, the liabilities of the
27 dividing corporation as to which those conditions are not
28 satisfied shall not be affected by the division nor shall
29 the rights of creditors thereunder be impaired by the
30 division and any claim existing or action or proceeding

1 pending by or against the corporation with respect to
2 those liabilities may be prosecuted to judgment as if the
3 division had not taken place, or the resulting
4 corporations may be proceeded against or substituted in
5 place of the dividing corporation as joint and several
6 obligors on those liabilities, regardless of any
7 provision of the plan of division apportioning the
8 liabilities of the dividing corporation.

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

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

20 (c) Taxes.--Any taxes, interest, penalties and public
21 accounts of the Commonwealth claimed against the dividing
22 corporation that are settled, assessed or determined prior to or
23 after the division shall be the liability of any of the
24 resulting corporations and, together with interest thereon,
25 shall be a lien against the franchises and property, both real
26 and personal, of all the corporations. Upon the application of
27 the dividing corporation, the Department of Revenue, with the
28 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, interest, penalties and public accounts of
2 the dividing corporation due the Commonwealth for periods prior
3 to the effective date of the division if those departments are
4 satisfied that the public revenues will be adequately secured.

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

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

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

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

25 (1) the surviving corporation if the dividing
26 corporation survives the division; or

27 (2) the members of the dividing corporation pro rata in
28 any other case.

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

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

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

10 (3) The validity of any allocations of assets or
11 liabilities by a plan of division of a domestic nonprofit
12 corporation, regardless of whether any of the new
13 corporations is a foreign nonprofit corporation, shall be
14 governed solely by the laws of this Commonwealth.

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

19 SUBCHAPTER E

20 CONVERSION

21 Sec.

22 5961. Conversion authorized.

23 5962. Proposal and adoption of plan of conversion.

24 5963. Articles of conversion.

25 5964. Filing of articles of conversion.

26 5965. Effective date of conversion.

27 5966. Effect of conversion.

28 § 5961. Conversion authorized.

29 (a) General rule.--Any nonprofit corporation may, in the
30 manner provided in this subchapter, be converted into a business

1 corporation, hereinafter designated as the resulting
2 corporation.

3 (b) Exceptions.--

4 (1) This subchapter shall not authorize any conversion
5 involving:

6 (i) A cooperative corporation.

7 (ii) Beneficial, benevolent, fraternal or fraternal
8 benefit societies having a lodge system and a
9 representative form of government, or transacting any
10 type of insurance whatsoever.

11 (iii) Any corporation which by the laws of this
12 Commonwealth is subject to the supervision of the
13 Department of Banking, the Insurance Department or the
14 Pennsylvania Public Utility Commission.

15 (2) Paragraph (1) of this subsection shall not be
16 construed as repealing any statute which provides a procedure
17 for the conversion of a nonprofit corporation into an
18 insurance corporation.

19 § 5962. Proposal and adoption of plan of conversion.

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

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

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

24 (3) A restatement of the articles of the resulting
25 corporation, which articles shall comply with the
26 requirements of Subpart B of Part II (relating to business
27 corporations).

28 (4) Such other details and provisions as are deemed
29 desirable.

30 (b) Proposal and adoption.--The plan of conversion shall be

1 proposed and adopted, and may be terminated, in the manner
2 provided for the proposal, adoption and termination of a plan of
3 merger in Subchapter C (relating to merger, consolidation and
4 sale of assets).

5 § 5963. Articles of conversion.

6 Upon the adoption of a plan of conversion by the nonprofit
7 corporation desiring to convert, as provided in this subchapter,
8 articles of conversion shall be executed by the corporation and
9 shall set forth:

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

15 (2) The statute under which the corporation was
16 incorporated and the date of incorporation.

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

20 (4) The manner in which the plan was adopted by the
21 corporation.

22 (5) Except as provided in section 5901 (relating to
23 omission of certain provisions from filed plans), the plan of
24 conversion.

25 § 5964. Filing of articles of conversion.

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

28 (b) Cross reference.--See section 134 (relating to docketing
29 statement).

30 § 5965. Effective date of conversion.

1 Upon the filing of articles of conversion in the Department
2 of State, or upon the effective date specified in the plan of
3 conversion, whichever is later, the conversion shall become
4 effective.

5 § 5966. Effect of conversion.

6 Upon the conversion becoming effective, the corporation shall
7 be deemed to be a business corporation for all purposes, shall
8 cease to be a nonprofit corporation, and may thereafter operate
9 for a purpose or purposes resulting in pecuniary profit,
10 incidental or otherwise, to its members or shareholders. The
11 corporation shall issue share certificates to each shareholder
12 entitled thereto. The corporation shall remain liable for all
13 existing obligations, public and private, taxes due the
14 Commonwealth or any other taxing authority for periods prior to
15 the effective date of the conversion, and, as such business
16 corporation, it shall continue to be entitled to all assets
17 theretofore pertaining to it as a nonprofit corporation except
18 as otherwise provided by order, if any, obtained pursuant to
19 section 5547(b) (relating to nondiversion of certain property).

20 § 5980. Dissolution by domestication.

21 Whenever a domestic nonprofit corporation has domesticated
22 itself under the laws of another jurisdiction by action similar
23 to that provided under section 6161 (relating to domestication)
24 and has authorized that action by the vote required by this
25 subchapter for the approval of a proposal that the corporation
26 dissolve voluntarily, the corporation may surrender its charter
27 under the laws of this Commonwealth by filing in the department
28 articles of dissolution under this subchapter containing the
29 statements specified under section 5977(b) (1) through (4)
30 (relating to articles of dissolution). If the corporation as

1 domesticated in the other jurisdiction qualifies to do business
2 in this Commonwealth either prior to or simultaneously with the
3 filing of the articles of dissolution under this section, the
4 corporation shall not be required to file with the articles of
5 dissolution the tax clearance certificates that would otherwise
6 be required under section 139 (relating to tax clearance of
7 certain fundamental transactions).

8 § 6121. Admission of foreign corporations.

9 (a) General rule.--A foreign nonprofit corporation, before
10 doing business in this Commonwealth, shall procure a certificate
11 of authority to do so from the Department of State, in the
12 manner provided in this subchapter. A foreign nonprofit
13 corporation shall not be denied a certificate of authority by
14 reason of the fact that the laws of the jurisdiction governing
15 its incorporation and internal affairs differ from the laws of
16 this Commonwealth.

17 (b) Qualification under former statute.--If a foreign
18 corporation was on March 19, 1966, admitted to do business in
19 this Commonwealth by the filing of a power of attorney and
20 statement under the act of June 8, 1911 (P.L.710, No.283), such
21 power of attorney and statement shall be deemed an approved
22 application for a certificate of authority issued under this
23 subchapter and the corporation shall be deemed a holder of the
24 certificate. The corporation shall include in its initial
25 application, if any, for an amended certificate of authority
26 under this subchapter the information required by this
27 subchapter to be set forth in an application for a certificate
28 of authority. A certificate of authority issued under the former
29 provisions of the Nonprofit Corporation Law of 1933 or former 15
30 Pa.C.S. Pt. III Art. B, known as the Nonprofit Corporation Law

1 of 1972, as added by the act of November 15, 1972 (P.L.1063,
2 No.271), shall be deemed to be issued under this subchapter and
3 the certificate of authority shall be deemed not to contain any
4 reference to the kind of business that the corporation proposes
5 to do in this Commonwealth.

6 § 6122. Excluded activities.

7 (a) General rule.--Without excluding other activities which
8 may not constitute doing business in this Commonwealth, a
9 foreign nonprofit corporation shall not be considered to be
10 doing business in this Commonwealth for the purposes of this
11 subchapter by reason of carrying on in this Commonwealth any one
12 or more of the following acts:

13 (1) Maintaining or defending any action or
14 administrative or arbitration proceeding or effecting the
15 settlement thereof or the settlement of claims or disputes.

16 (2) Holding meetings of its directors, other body or
17 members or carrying on other activities concerning its
18 internal affairs.

19 (3) Maintaining bank accounts.

20 (4) Maintaining offices or agencies for the transfer,
21 exchange and registration of its memberships or securities,
22 or appointing and maintaining trustees or depositories with
23 relation to its memberships or securities.

24 (5) Granting funds.

25 (6) Distributing information to its members.

26 (7) Creating as borrower or lender, acquiring or
27 incurring obligations or mortgages or other security
28 interests in real or personal property.

29 (8) Securing or collecting debts or enforcing any rights
30 in property securing them.

1 (9) Transacting any business in interstate or foreign
2 commerce.

3 (10) Conducting an isolated transaction completed within
4 a period of 30 days and not in the course of a number of
5 repeated transactions of like nature.

6 (11) Inspecting, appraising and acquiring real estate
7 and mortgages and other liens thereon and personal property
8 and security interests therein, and holding, leasing,
9 conveying and transferring them, as fiduciary or otherwise.

10 (b) Exceptions.--The specification of activities in
11 subsection (a) does not establish a standard for activities that
12 may subject a foreign corporation to:

13 (1) Service of process under any statute or general
14 rule.

15 (2) Taxation by the Commonwealth or any political
16 subdivision thereof.

17 (3) The provisions of section 6145 (relating to
18 applicability of certain safeguards to foreign domiciliary
19 corporations).

20 § 6123. Requirements for foreign corporation names.

21 (a) General rule.--The Department of State shall not issue a
22 certificate of authority to any foreign nonprofit corporation
23 that, except as provided in subsection (b), has a name that is
24 rendered unavailable for use by a domestic nonprofit corporation
25 by any provision of section 5303(a), (b) or (c) (relating to
26 corporate name).

27 (b) Exceptions.--

28 (1) The provisions of section 5303(b) (relating to
29 duplicate use of names) shall not prevent the issuance of a
30 certificate of authority to a foreign nonprofit corporation

1 setting forth a name that is not distinguishable upon the
2 records of the department from the name of any other domestic
3 or foreign corporation for profit or not-for-profit, or of
4 any corporation or other association then registered under 54
5 Pa.C.S. Ch. 5 (relating to corporate and other association
6 names) or to any name reserved or registered as provided in
7 this part, if the foreign nonprofit corporation applying for
8 a certificate of authority files in the department a
9 resolution of its board of directors or other body adopting a
10 fictitious name for use in transacting business in this
11 Commonwealth, which fictitious name is distinguishable upon
12 the records of the department from the name of the other
13 corporation or other association and from any name reserved
14 or registered as provided in this part that is otherwise
15 available for use by a domestic nonprofit corporation.

16 (2) The provisions of section 5303(c) (relating to
17 required approvals or conditions) shall not prevent the
18 issuance of a certificate of authority to a foreign nonprofit
19 corporation setting forth a name that is prohibited by that
20 subsection if the foreign nonprofit corporation applying for
21 a certificate of authority files in the department a
22 resolution of its board of directors or other body adopting a
23 fictitious name for use in transacting business in this
24 Commonwealth that is available for use by a domestic
25 nonprofit corporation.]

26 Section 40. Section 6124 of Title 15 is amended to read:

27 § 6124. [Application for a certificate of authority.]

28 Advertisement of registration to do business.

29 [(a) General rule.--An application for a certificate of
30 authority shall be executed by the foreign nonprofit corporation

1 and shall set forth:

2 (1) The name of the corporation.

3 (2) The name of the jurisdiction under the laws of which
4 it is incorporated.

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

8 (4) Subject to section 109 (relating to name of
9 commercial registered office provider in lieu of registered
10 address), the address, including street and number, if any,
11 of its proposed registered office in this Commonwealth.

12 (5) A statement that it is a corporation incorporated
13 for a purpose or purposes not involving pecuniary profit,
14 incidental or otherwise.

15 (b) Advertisement.--]A foreign nonprofit corporation shall
16 officially publish notice of its intention to [apply or its
17 application for a certificate of authority] register to do
18 business or its registration to do business in this Commonwealth
19 under Chapter 4 (relating to foreign associations). The notice
20 may appear prior to or after the day on which [application is
21 made to the Department of State] a registration statement is
22 delivered to the department for filing and shall set forth
23 [briefly]:

24 (1) A statement that the corporation will [apply or has
25 applied for a certificate of authority under the provisions
26 of the Nonprofit Corporation Law of 1988] register or has
27 registered to do business in this Commonwealth under Chapter
28 4.

29 (2) The name of the corporation and [of the jurisdiction
30 under the laws of which it is incorporated] its jurisdiction

1 of formation.

2 (3) The address, including street and number, if any, of
3 its principal office under the laws of [the jurisdiction in
4 which it is incorporated] its jurisdiction of formation.

5 (4) Subject to section 109, the address, including
6 street and number, if any, of its proposed registered office
7 in this Commonwealth.

8 (c) [Filing.--The application for a certificate of authority
9 shall be filed in the Department of State.] (Reserved).

10 (d) [Cross reference.--See section 134 (relating to
11 docketing statement).] (Reserved).

12 Section 41. Sections 6125, 6126, 6127 and 6128 of Title 15
13 are repealed:

14 [§ 6125. Issuance of certificate of authority.

15 Upon the filing of the application for a certificate of
16 authority, the foreign nonprofit corporation shall be deemed to
17 hold a certificate of authority to do business in this
18 Commonwealth.

19 § 6126. Amended certificate of authority.

20 (a) General rule.--After receiving a certificate of
21 authority, a qualified foreign nonprofit corporation may,
22 subject to the provisions of this subchapter, change or correct
23 any of the information set forth in its application for a
24 certificate of authority or previous filings under this section
25 by filing in the Department of State an application for an
26 amended certificate of authority. The application shall be
27 executed by the corporation and shall state:

28 (1) The name under which the applicant corporation
29 currently holds a certificate of authority to do business in
30 this Commonwealth.

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 in this Commonwealth.

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

6 (4) If the application reflects a change in the name of
7 the corporation, the application shall include a statement
8 that either:

9 (i) the change of name reflects a change effected in
10 the jurisdiction of incorporation; or

11 (ii) documents complying with section 6123(b)
12 (relating to exceptions) accompany the application.

13 (b) Issuance of amended certificate of authority.--Upon the
14 filing of the application, the applicant corporation shall be
15 deemed to hold an amended certificate of authority.

16 (c) Cross reference.--See section 134 (relating to docketing
17 statement).

18 § 6127. Merger, consolidation or division of qualified foreign
19 corporations.

20 (a) General rule.--Whenever a qualified foreign nonprofit
21 corporation is a nonsurviving party to a statutory merger,
22 consolidation or division permitted by the laws of the
23 jurisdiction under which it is incorporated, the corporation
24 surviving the merger, or the new corporation resulting from the
25 consolidation or division, as the case may be, shall file in the
26 Department of State a statement of merger, consolidation or
27 division, which shall be executed by the surviving or new
28 corporation and shall set forth:

29 (1) The name of each nonsurviving qualified foreign
30 nonprofit corporation.

1 (2) The name of the jurisdictions under the laws of
2 which each nonsurviving qualified foreign nonprofit
3 corporation was incorporated.

4 (3) The date on which each nonsurviving qualified
5 foreign nonprofit corporation received a certificate of
6 authority to do business in this Commonwealth.

7 (4) A statement that the corporate existence of each
8 nonsurviving qualified foreign nonprofit corporation has been
9 terminated by merger, consolidation or division, as the case
10 may be.

11 (5) In the case of a consolidation or division or if the
12 surviving corporation was a nonqualified foreign nonprofit
13 corporation prior to the merger, the statements on the part
14 of the surviving or new corporation required by section
15 6124(a) (relating to application for a certificate of
16 authority).

17 (b) Effect of filing.--The filing of the statement shall
18 operate, as of the effective date of the merger, consolidation
19 or division, to cancel the certificate of authority of each
20 nonsurviving constituent corporation that was a qualified
21 foreign nonprofit corporation and to qualify the surviving or
22 new corporation under this subchapter. If the surviving or new
23 corporation does not desire to continue as a qualified foreign
24 nonprofit corporation, it may thereafter withdraw in the manner
25 provided by section 6129 (relating to application for
26 termination of authority).

27 (c) Surviving qualified foreign corporations.--It shall not
28 be necessary for a surviving corporation that was a qualified
29 foreign nonprofit corporation to effect any filing under this
30 subchapter with respect to a merger or division or to procure an

1 amended certificate of authority to do business in this
2 Commonwealth unless the name of such corporation is changed by
3 the merger or division.

4 (d) Cross reference.--See section 134 (relating to docketing
5 statement).

6 § 6128. Revocation of certificate of authority.

7 (a) General rule.--Whenever the Department of State finds
8 that a qualified foreign nonprofit corporation has failed to
9 secure an amended certificate of authority as required by this
10 subchapter after changing its name, or has failed or refused to
11 appear by its proper representatives, or otherwise to comply
12 with any subpoena issued by any court having jurisdiction of the
13 subject matter, or to produce books, papers, records or
14 documents as required by a subpoena, or is violating any of the
15 laws of this Commonwealth, or that its articles have been
16 revoked or voided by its jurisdiction of incorporation, the
17 department shall give notice and opportunity for hearing by
18 registered or certified mail to the corporation that the default
19 exists and that its certificate of authority, including any
20 amendments thereof, will be revoked unless the default is cured
21 within 30 days after the mailing of the notice. If the default
22 is not cured within the period of 30 days, the department shall
23 revoke the certificate of authority, including any amendments
24 thereof, of the foreign nonprofit corporation. Upon revoking the
25 certificate of authority, the department shall mail to the
26 corporation, at its registered office in this Commonwealth, a
27 certificate of revocation.

28 (b) Effect of revocation.--Upon the issuance of the
29 certificate of revocation, the authority of the corporation to
30 do business in this Commonwealth shall cease and the corporation

1 shall not thereafter do any business in this Commonwealth unless
2 it applies for and receives a new certificate of authority.]

3 Section 42. Section 6129 of Title 15 is amended to read:

4 § 6129. [Application for] Advertisement of termination of
5 [authority] registration to do business.

6 [(a) General rule.--Any qualified foreign nonprofit
7 corporation may withdraw from doing business in this
8 Commonwealth and surrender its certificate of authority by
9 filing in the Department of State an application for termination
10 of authority, executed by the corporation, which shall set
11 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 address,
15 including street and number, if any, of its registered office
16 in this Commonwealth.

17 (2) The name of the jurisdiction under the laws of which
18 it is incorporated.

19 (3) The date on which it received a certificate of
20 authority to do business in this Commonwealth.

21 (4) A statement that it surrenders its certificate of
22 authority to do business in this Commonwealth.

23 (5) A statement that notice of its intention to withdraw
24 from doing business in this Commonwealth was mailed by
25 certified or registered mail to each municipal corporation in
26 which the registered office or principal place of business of
27 the corporation in this Commonwealth is located, and that the
28 official publication required by subsection (b) has been
29 effected.

30 (6) The post office address, including street and

1 number, if any, to which process may be sent in an action or
2 proceeding upon any liability incurred before the filing of
3 the application for termination of authority.

4 (b) Advertisement.--]A [qualified] registered foreign
5 nonprofit corporation shall, before filing [an application for
6 termination of authority] a statement of withdrawal under
7 section 415 (relating to voluntary withdrawal of registration),
8 officially publish and mail a notice of its intention to
9 withdraw from doing business in this Commonwealth in a manner
10 similar to that required by section 5975(b) (relating to notice
11 to creditors and taxing authorities). The notice shall set forth
12 [briefly]:

13 (1) The name of the corporation and [the jurisdiction
14 under the laws of which it is incorporated] its jurisdiction
15 of formation.

16 (2) The address, including street and number, if any, of
17 its principal office under the laws of its jurisdiction of
18 [incorporation] formation.

19 (3) Subject to section 109, the address, including
20 street and number, if any, of its last registered office in
21 this Commonwealth.

22 (c) [Filing.--The application for termination of authority
23 and the certificates or statement required by section 139
24 (relating to tax clearance of certain fundamental transactions)
25 shall be filed in the department. See section 134 (relating to
26 docketing statement).] (Reserved).

27 (d) [Effect of filing.--Upon the filing of the application
28 for termination of authority, the authority of the corporation
29 to do business in this Commonwealth shall cease. The termination
30 of authority shall not affect any action or proceeding pending

1 at the time thereof or affect any right of action arising with
2 respect to the corporation before the filing of the application
3 for termination of authority. Process against the corporation in
4 an action upon any liability incurred before the filing of the
5 application for termination of authority may be served as
6 provided in 42 Pa.C.S. Ch. 53 (relating to bases of jurisdiction
7 and interstate and international procedure) or as otherwise
8 provided or prescribed by law.] (Reserved).

9 Section 43. Sections 6130, 6131, 6141, 6142, 6143, 6144 and
10 Subchapter D of Chapter 61 of Title 15 are repealed:

11 [§ 6130. Change of address after withdrawal.

12 (a) General rule.--Any foreign nonprofit corporation that
13 has withdrawn from doing business in this Commonwealth, or its
14 successor in interest, may, from time to time, change the
15 address to which process may be sent in an action upon any
16 liability incurred before the filing of an application for
17 termination of authority by filing in the Department of State a
18 statement of change of address by the withdrawn corporation
19 executed by the corporation, setting forth:

20 (1) The name of the withdrawn corporation and, if the
21 statement is filed by a successor in interest, the name and
22 capacity of the successor.

23 (2) The name of the jurisdiction under the laws of which
24 the corporation filing the statement is incorporated.

25 (3) The former post office address, including street and
26 number, if any, of the withdrawn corporation as of record in
27 the department.

28 (4) The new post office address, including street and
29 number, if any, of the withdrawn corporation or its
30 successor.

1 (b) Cross reference.--See section 134 (relating to docketing
2 statement).

3 § 6131. Registration of name.

4 (a) General rule.--A nonqualified foreign nonprofit
5 corporation may register its name under 54 Pa.C.S. Ch. 5
6 (relating to corporate and other association names) if the name
7 is available for use by a qualified foreign nonprofit
8 corporation under section 6123 (relating to requirements for
9 foreign corporation names), by filing in the Department of State
10 an application for registration of name, executed by the
11 corporation, which shall set forth:

12 (1) The name of the corporation.

13 (2) The address, including street and number, if any, of
14 the corporation.

15 (b) Annual renewal.--A corporation that has in effect a
16 registration of its corporate name may renew the registration
17 from year to year by annually filing an application for renewal
18 setting forth the facts required to be set forth in an original
19 application for registration. A renewal application may be filed
20 between October 1 and December 31 in each year and shall extend
21 the registration for the following calendar year.

22 (c) Cross reference.--See section 134 (relating to docketing
23 statement).

24 § 6141. Penalty for doing business without certificate of
25 authority.

26 (a) Right to bring actions suspended.--A nonqualified
27 foreign nonprofit corporation doing business in this
28 Commonwealth within the meaning of Subchapter B (relating to
29 qualification) shall not be permitted to maintain any action or
30 proceeding in any court of this Commonwealth until the

1 corporation has obtained a certificate of authority. Except as
2 provided in subsection (b), an action or proceeding may not be
3 maintained in any court of this Commonwealth by any successor or
4 assignee of the corporation on any right, claim or demand
5 arising out of the doing of business by the corporation in this
6 Commonwealth until a certificate of authority has been obtained
7 by the corporation or by a corporation that has acquired all or
8 substantially all of its assets.

9 (a.1) Contracts, property and defense against actions
10 unaffected.--The failure of a foreign nonprofit corporation to
11 obtain a certificate of authority to transact business in this
12 Commonwealth shall not impair the validity of any contract or
13 act of the corporation, shall not prevent the corporation from
14 defending any action in any court of this Commonwealth and shall
15 not render escheatable any of its real or personal property.

16 § 6142. General powers and duties of qualified foreign
17 corporations.

18 (a) General rule.--A qualified foreign nonprofit
19 corporation, so long as its certificate of authority is not
20 revoked, shall enjoy the same rights and privileges as a
21 domestic nonprofit corporation, but no more, and, except as in
22 this subpart otherwise provided, shall be subject to the same
23 liabilities, restrictions, duties and penalties now in force or
24 hereafter imposed upon domestic nonprofit corporations, to the
25 same extent as if it had been incorporated under this subpart.

26 (b) Agricultural lands.--Interests in agricultural land
27 shall be subject to the restrictions of and escheatable as
28 provided by the act of April 6, 1980 (P.L.102, No.39), referred
29 to as the Agricultural Land Acquisition by Aliens Law.

30 § 6143. General powers and duties of nonqualified foreign

1 corporations.

2 (a) Acquisition of real and personal property.--Every
3 nonqualified foreign nonprofit corporation may acquire, hold,
4 mortgage, lease and transfer real and personal property in this
5 Commonwealth, in the same manner and subject to the same
6 limitations as a qualified foreign nonprofit corporation.

7 (b) Duties.--Except as provided in section 6141(a) (relating
8 to penalty for doing business without certificate of authority),
9 a nonqualified foreign nonprofit corporation doing business in
10 this Commonwealth within the meaning of Subchapter B (relating
11 to qualification) shall be subject to the same liabilities,
12 restrictions, duties and penalties now or hereafter imposed upon
13 a qualified foreign nonprofit corporation.

14 § 6144. Registered office of qualified foreign corporations.

15 (a) General rule.--Subject to the provisions of section
16 5507(c) (relating to alternative procedure), every qualified
17 foreign nonprofit corporation shall have, and continuously
18 maintain, in this Commonwealth a registered office, which may
19 but need not be the same as its place of business in this
20 Commonwealth.

21 (b) Change.--A qualified foreign corporation may, from time
22 to time, change the address of its registered office in the
23 manner provided by section 5507(b) (relating to statement of
24 change of registered office).

25 SUBCHAPTER D

26 DOMESTICATION

27 Sec.

28 6161. Domestication.

29 6162. Effect of domestication.

30 § 6161. Domestication.

1 (a) General rule.--Any qualified foreign nonprofit
2 corporation may become a domestic nonprofit corporation by
3 filing in the Department of State articles of domestication. The
4 articles of domestication, upon being filed in the department,
5 shall constitute the articles of the domesticated foreign
6 corporation, and it shall thereafter continue as a corporation
7 which shall be a domestic nonprofit corporation subject to this
8 subpart.

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

12 (1) The name of the corporation. If the name is in a
13 foreign language, it shall be set forth in Roman letters or
14 characters or Arabic or Roman numerals.

15 (2) Subject to section 109 (relating to name of
16 commercial registered office provider in lieu of registered
17 address), the address, including street and number, if any,
18 of its registered office in this Commonwealth.

19 (3) A statement that upon domestication the corporation
20 will be subject to the domestic corporation provisions of the
21 Nonprofit Corporation Law of 1988 and a brief statement of
22 the purpose or purposes for which it is to be domesticated
23 which shall be a purpose or purposes for which a domestic
24 nonprofit corporation may be incorporated under Article B
25 (relating to domestic nonprofit corporations generally).

26 (4) The term for which upon domestication it is to
27 exist, if not perpetual.

28 (5) Any desired provisions relating to the manner and
29 basis of reclassifying the memberships in the corporation.

30 (6) A statement that the filing of articles of

1 domestication and, if desired, the renunciation of the
2 original charter or articles of the corporation has been
3 authorized (unless its charter or other organic documents
4 require a greater vote) by a majority of the votes cast by
5 all members entitled to vote thereon and, if any class of
6 members is entitled to vote thereon as a class, a majority of
7 the votes cast in each class vote.

8 (7) Any other provisions authorized by Article B to be
9 set forth in the original articles.

10 (c) Cross reference.--See section 134 (relating to docketing
11 statement).

12 § 6162. Effect of domestication.

13 As a domestic nonprofit corporation, the domesticated
14 corporation shall no longer be a foreign nonprofit corporation
15 for the purposes of this subpart and shall have all the powers
16 and privileges and be subject to all the duties and limitations
17 granted and imposed upon domestic nonprofit corporations. The
18 property, franchises, debts, liens, estates, taxes, penalties
19 and public accounts due the Commonwealth shall continue to be
20 vested in and imposed upon the corporation to the same extent as
21 if it were the successor by merger of the domesticating
22 corporation with and into a domestic nonprofit corporation under
23 Subchapter C of Chapter 59 (relating to merger, consolidation
24 and sale of assets). Memberships in the domesticated corporation
25 shall be unaffected by the domestication except to the extent,
26 if any, reclassified in the articles of domestication.]

27 Section 44. The definitions of "bureau" and "corporation" in
28 section 7702 of Title 15 are amended to read:

29 § 7702. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 ["Bureau." The Corporation Bureau of the department.]

4 "Corporation." A corporation [organized] for profit which
5 has elected to be governed by this chapter.

6 * * *

7 Section 45. Sections 7703(b)(1), 7704(d)(1) and 7723(a) of
8 Title 15 are amended to read:

9 § 7703. Corporations.

10 * * *

11 (b) Name.--

12 (1) [The corporation may adopt any corporate name to
13 indicate its cooperative character as long as the name has
14 not been previously adopted.] The name of the corporation
15 must comply with section 202 (relating to requirements for
16 names generally).

17 * * *

18 § 7704. Articles of incorporation.

19 * * *

20 (d) Content of articles.--The articles of incorporation
21 shall be signed by the persons originally associating themselves
22 together and shall state [distinctly]:

23 (1) The name [by which] of the corporation [shall be
24 known, which may not be the same as, or confusingly similar
25 to, the name of an association or corporation existing under
26 the law of the Commonwealth, the name of a foreign or alien
27 association or corporation authorized to transact business in
28 this Commonwealth, or a corporate name reserved or registered
29 as provided by law].

30 * * *

1 § 7723. Dissolution.

2 (a) General rule.--A corporation may dissolve and wind up;
3 may merge [or consolidate] with other corporations; and may sell
4 to, lease to or exchange with other corporations all or
5 substantially all of its property and assets. Except as
6 otherwise provided in this chapter, these actions are governed
7 by Chapter 3 (relating to entity transactions) and Subchapter C
8 of Chapter 19 (relating to merger[, consolidation, share
9 exchanges] liabilities and sale of assets). A workers'
10 cooperative corporation which has not revoked its election to be
11 governed by this chapter may not [consolidate or] merge with one
12 or more corporations organized under any law other than this
13 chapter. If a member objects to a corporation's merger [or
14 consolidation], the member may terminate membership in the
15 corporation. The price of redemption of the member's interest
16 shall be the amount in the member's individual capital account
17 on terms and conditions as the law, the articles of
18 incorporation and the bylaws provide.

19 * * *

20 Section 46. Section 8203 of Title 15 is repealed:

21 [§ 8203. Name.

22 (a) General rule.--The name of a registered limited
23 liability partnership shall:

24 (1) Not be one rendered unavailable for use by a
25 corporation by any provision of section 1303(b) and (c)
26 (relating to corporate name).

27 (2) Contain the term "company," "limited" or "limited
28 liability partnership," or an abbreviation of one of those
29 terms, or words or abbreviations of like import in English or
30 any other language.

1 (b) Reservation of name.--The exclusive right to the use of
2 a name for purposes of this subchapter may be reserved and
3 transferred in the manner provided in section 1305 (relating to
4 reservation of corporate name).]

5 Section 47. Section 8211(b) of Title 15 is amended to read:
6 § 8211. Foreign registered limited liability partnerships.

7 * * *

8 [(b) Registration to do business.--A foreign registered
9 limited liability partnership, regardless of whether or not it
10 is also a foreign limited partnership, shall be subject to
11 Subchapter K of Chapter 85 (relating to foreign limited
12 partnerships) as if it were a foreign limited partnership,
13 except that:

14 (1) Its application for registration shall state that it
15 is a registered limited liability partnership.

16 (2) The name under which it registers and conducts
17 business in this Commonwealth shall comply with the
18 requirements of section 8203 (relating to name).

19 (3) Section 8582(a)(5) and (6) (relating to
20 registration) shall not be applicable to the application for
21 registration of a foreign limited liability partnership that
22 is not a foreign limited partnership.]

23 * * *

24 Section 48. The definitions of "certificate of limited
25 partnership," "foreign limited partnership," "nonqualified
26 foreign limited partnership" and "qualified foreign limited
27 partnership" in section 8503(a) of Title 15 are amended to read:
28 § 8503. Definitions and index of definitions.

29 (a) Definitions.--The following words and phrases when used
30 in this chapter shall have the meanings given to them in this

1 section unless the context clearly indicates otherwise:

2 "Certificate of limited partnership." The certificate
3 referred to in section 8511 (relating to certificate of limited
4 partnership) and the certificate as amended. The term includes
5 any other statements or certificates permitted or required to be
6 filed in the Department of State by sections 108 (relating to
7 change in location or status of registered office provided by
8 agent) and 138 (relating to statement of correction), Chapter 3
9 (relating to entity transactions) or this part. If an amendment
10 of the certificate of limited partnership or a [certificate of
11 merger or division made in the manner permitted by this chapter]
12 statement filed under Chapter 3 restates the certificate in its
13 entirety [or if there is a certificate of consolidation],
14 thenceforth the "certificate of limited partnership" shall not
15 include any prior documents and any certificate issued by the
16 department with respect thereto shall so state.

17 * * *

18 "Foreign limited partnership." A partnership formed under
19 the laws of any jurisdiction other than this Commonwealth and
20 having as partners one or more general partners and one or more
21 limited partners, whether or not required to register under
22 [Subchapter K (relating to foreign limited partnerships)]
23 Chapter 4 (relating to foreign associations).

24 * * *

25 ["Nonqualified foreign limited partnership." A foreign
26 limited partnership that is not a qualified foreign limited
27 partnership as defined in this section.]

28 * * *

29 ["Qualified foreign limited partnership." A foreign limited
30 partnership that is registered under Subchapter K (relating to

1 foreign limited partnerships) to do business in this
2 Commonwealth.]

3 * * *

4 Section 49. Section 8505 of Title 15 is repealed:

5 [§ 8505. Name.

6 (a) General rule.--The name of each limited partnership as
7 set forth in its certificate of limited partnership:

8 (1) Shall be expressed in Roman letters or characters or
9 Arabic or Roman numerals.

10 (2) Shall not be one rendered unavailable to use by a
11 corporation by any provision of section 1303(b) and (c)
12 (relating to corporate name).

13 (3) May contain the name of a limited partner or a
14 general partner. See section 8523(d) (relating to use of name
15 of limited partner).

16 (b) Reservation of name.--The exclusive right to the use of
17 a name for purposes of this chapter may be reserved and
18 transferred in the manner provided by section 1305 (relating to
19 reservation of corporate name).]

20 Section 50. Sections 8513(d) and 8514(a) of Title 15 are
21 amended to read:

22 § 8513. Cancellation of certificate.

23 * * *

24 [(d) Dissolution by domestication.--Whenever a domestic
25 limited partnership has domesticated itself under the laws of
26 another jurisdiction by action similar to that provided by
27 section 8590 (relating to domestication) and has authorized that
28 action by the vote required by this chapter for the approval of
29 a proposal that the limited partnership dissolve voluntarily,
30 the limited partnership may surrender its certificate of limited

1 partnership under the laws of this Commonwealth by filing in the
2 department a certificate of cancellation under subsection (a).]

3 * * *

4 § 8514. Execution of certificates.

5 (a) General rule.--Each certificate or other document
6 required or permitted by this chapter to be [filed in] delivered
7 to the Department of State for filing shall be [executed] signed
8 in the following manner:

9 (1) An original certificate of limited partnership must
10 be signed by all general partners named therein.

11 (2) A certificate of amendment must be signed by at
12 least one general partner and by each other general partner
13 designated in the certificate as a new general partner.

14 (3) A certificate of cancellation must be signed by all
15 general partners or liquidating trustees or, if there is no
16 general partner or liquidating trustee, by a majority in
17 interest of the limited partners.

18 (4) A certificate of change of registered office must be
19 signed by a general partner.

20 (5) A certificate of summary of record must be signed by
21 all general partners.

22 (6) A certificate of withdrawal must be signed by the
23 person withdrawing.

24 (7) A certificate of termination must be signed by a
25 general partner.

26 (8) A [certificate of merger, consolidation or division]
27 statement of merger, interest exchange, conversion, division
28 or domestication must be signed by a general partner.

29 (9) [An application for registration as a foreign
30 limited partnership] A foreign registration statement must be

1 signed by a general partner.

2 (10) [A certificate of amendment of registration of a
3 foreign limited partnership] An amendment of a foreign
4 registration statement must be signed by a general partner.

5 (11) A [certificate of cancellation of registration of]
6 statement of withdrawal by a foreign limited partnership must
7 be signed by a general partner.

8 [(12) A certificate of domestication must be signed by a
9 general partner.]

10 * * *

11 Section 51. Subchapter F of Chapter 85 of Title 15 is
12 repealed:

13 [SUBCHAPTER F
14 MERGER AND CONSOLIDATION

15 Sec.

16 8545. Merger and consolidation of limited partnerships
17 authorized.

18 8546. Approval of merger or consolidation.

19 8547. Certificate of merger or consolidation.

20 8548. Effective date of merger or consolidation.

21 8549. Effect of merger or consolidation.

22 § 8545. Merger and consolidation of limited partnerships
23 authorized.

24 (a) Domestic surviving or new limited partnership.--Any two
25 or more domestic limited partnerships, or any two or more
26 foreign limited partnerships, or any one or more domestic
27 limited partnerships and any one or more foreign limited
28 partnerships, may, in the manner provided in this subchapter, be
29 merged into one of the domestic limited partnerships, designated
30 in this subchapter as the surviving limited partnership, or

1 consolidated into a new limited partnership to be formed under
2 this chapter, if the foreign limited partnerships are authorized
3 by the laws of the jurisdiction under which they are organized
4 to effect a merger or consolidation with a limited partnership
5 of another jurisdiction.

6 (b) Foreign surviving or new limited partnership.--Any one
7 or more domestic limited partnerships, and any one or more
8 foreign limited partnerships, may, in the manner provided in
9 this subchapter, be merged into one of the foreign limited
10 partnerships, designated in this subchapter as the surviving
11 limited partnership, or consolidated into a new limited
12 partnership to be organized under the laws of the jurisdiction
13 under which one of the foreign limited partnerships is
14 organized, if the laws of that jurisdiction authorize a merger
15 with or consolidation into a limited partnership of another
16 jurisdiction.

17 (c) Business trusts and other associations.--The provisions
18 of this subchapter applicable to domestic and foreign limited
19 partnerships shall also be applicable to a merger or
20 consolidation to which a domestic limited partnership is a party
21 or in which such a partnership is the resulting entity with or
22 into a domestic or foreign corporation, business trust, general
23 partnership or other association. Except as otherwise provided
24 by law in this or any other state, the powers and duties vested
25 in and imposed upon the general partners and limited partners in
26 this subchapter shall be exercised and performed by the group of
27 persons under the direction of whom the business and affairs of
28 the corporation, business trust or other association are managed
29 and the holders or owners of shares or other interests in the
30 corporation, business trust or other association, respectively,

1 irrespective of the names by which the managing group and the
2 holders or owners of shares or other interests are designated.
3 The units into which the shares or other interests in the
4 corporation, business trust or other association are divided
5 shall be deemed to be partnership interests for the purposes of
6 applying the provisions of this subchapter to a merger or
7 consolidation involving the corporation, business trust or other
8 association.

9 § 8546. Approval of merger or consolidation.

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

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

15 (2) If the surviving or new partnership is or is to be a
16 domestic limited partnership:

17 (i) in the case of a merger, any changes desired to
18 be made in the certificate of limited partnership or
19 partnership agreement, which may include a restatement of
20 either or both; or

21 (ii) in the case of a consolidation:

22 (A) all of the statements required by this
23 chapter to be set forth in a restated certificate of
24 limited partnership; and

25 (B) the written provisions, if any, of the
26 partnership agreement.

27 (3) The manner and basis of converting the partnership
28 interests of each limited partnership into partnership
29 interests, securities or obligations of the surviving or new
30 limited partnership, as the case may be, and, if any of the

1 partnership interests of any of the limited partnerships that
2 are parties to the merger or consolidation are not to be
3 converted solely into partnership interests, securities or
4 obligations of the surviving or new limited partnership, the
5 partnership interests, securities or obligations of any other
6 person or cash, property or rights that the holders of such
7 partnership interests are to receive in exchange for, or upon
8 conversion of, such partnership interests, and the surrender
9 of any certificates evidencing them, which securities or
10 obligations, if any, of any other person or cash, property or
11 rights may be in addition to or in lieu of the partnership
12 interests, securities or obligations of the surviving or new
13 limited partnership.

14 (4) Such other provisions as are deemed desirable.

15 (b) Post-adoption amendment of plan of merger or
16 consolidation.--A plan of merger or consolidation may contain a
17 provision that the general partners of the constituent limited
18 partnerships may amend the plan at any time prior to its
19 effective date, except that an amendment made subsequent to any
20 adoption of the plan by the limited partners of any constituent
21 domestic limited partnership shall not change:

22 (1) The amount or kind of partnership interests,
23 obligations, cash, property or rights to be received in
24 exchange for or on conversion of all or any of the
25 partnership interests of the constituent domestic limited
26 partnership adversely to the holders of those partnership
27 interests.

28 (2) Any term of the certificate of limited partnership
29 or partnership agreement of the surviving or new limited
30 partnership as it is to be in effect immediately following

1 consummation of the merger or consolidation except provisions
2 that may be amended without the approval of the limited
3 partners.

4 (3) Any of the other terms and conditions of the plan if
5 the change would adversely affect the holders of any
6 partnership interests of the constituent domestic limited
7 partnership.

8 (c) Proposal of merger or consolidation.--Every merger or
9 consolidation shall be proposed in the case of each domestic
10 limited partnership by the adoption by the general partners of a
11 resolution approving the plan of merger or consolidation. Except
12 where the approval of the limited partners is unnecessary under
13 this subchapter or the partnership agreement, the general
14 partners shall submit the plan to a vote of the limited partners
15 entitled to vote thereon at a regular or special meeting of the
16 limited partners.

17 (d) Party to plan.--An association that approves a plan in
18 its capacity as a partner or creditor of a merging or
19 consolidating limited partnership, or that furnishes all or a
20 part of the consideration contemplated by a plan, does not
21 thereby become a party to the merger or consolidation for the
22 purposes of this subchapter.

23 (e) Notice of meeting of limited partners.--Notwithstanding
24 any other provision of the partnership agreement, written notice
25 of the meeting of limited partners called for the purpose of
26 considering the proposed plan shall be given to each limited
27 partner of record, whether or not entitled to vote thereon, of
28 each domestic limited partnership that is a party to the
29 proposed merger or consolidation. There shall be included in, or
30 enclosed with, the notice a copy of the proposed plan or a

1 summary thereof. The provisions of this subsection may not be
2 relaxed by the certificate of limited partnership or partnership
3 agreement.

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

16 (g) Adoption by general partners.--

17 (1) Unless otherwise required by the partnership
18 agreement, a plan of merger or consolidation shall not
19 require the approval of the limited partners of a limited
20 partnership if:

21 (i) the plan, whether or not the limited partnership
22 is the surviving limited partnership, does not alter the
23 status of the limited partnership as a domestic limited
24 partnership or alter in any respect the provisions of its
25 certificate of limited partnership or partnership
26 agreement, except changes that may be made without action
27 by the limited partners; and

28 (ii) each partnership interest outstanding
29 immediately prior to the effective date of the merger or
30 consolidation is to continue as or to be converted into,

1 except as may be otherwise agreed by the holder thereof,
2 an identical partnership interest in the surviving or new
3 limited partnership after the effective date of the
4 merger or consolidation.

5 (2) If a merger or consolidation is effected pursuant to
6 paragraph (1), the plan of merger or consolidation shall be
7 deemed adopted by the limited partnership when it has been
8 adopted by the general partners pursuant to subsection (c).

9 (h) Termination of plan.--Prior to the time when a merger or
10 consolidation becomes effective, the merger or consolidation may
11 be terminated pursuant to provisions therefor, if any, set forth
12 in the plan. If a certificate of merger or consolidation has
13 been filed in the department prior to the termination, a
14 certificate of termination executed by each limited partnership
15 that is a party to the merger or consolidation, unless the plan
16 permits termination by less than all of the limited
17 partnerships, in which case the certificate shall be executed on
18 behalf of the limited partnership exercising the right to
19 terminate, shall be filed in the department. The certificate of
20 termination shall set forth:

21 (1) A copy of the certificate of merger or consolidation
22 relating to the plan that is terminated.

23 (2) A statement that the plan has been terminated in
24 accordance with the provisions therefor set forth therein.

25 See sections 134 (relating to docketing statement), 135
26 (relating to requirements to be met by filed documents), 138
27 (relating to statement of correction) and 8514 (relating to
28 execution of certificates).

29 (i) Authorization by foreign limited partnerships.--The plan
30 of merger or consolidation shall be authorized, adopted or

1 approved by each foreign limited partnership that desires to
2 merge or consolidate in accordance with the laws of the
3 jurisdiction in which it is organized.

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

11 § 8547. Certificate of merger or consolidation.

12 (a) General rule.--Upon the adoption of the plan of merger
13 or consolidation by the limited partnerships desiring to merge
14 or consolidate, as provided in this subchapter, a certificate of
15 merger or a certificate of consolidation, as the case may be,
16 shall be executed by each limited partnership and shall, subject
17 to section 109 (relating to name of commercial registered office
18 provider in lieu of registered address), set forth:

19 (1) The name and the location of the registered office,
20 including street and number, if any, of the domestic
21 surviving or new limited partnership or, in the case of a
22 foreign surviving or new limited partnership, the name of the
23 limited partnership and its jurisdiction of organization,
24 together with either of the following:

25 (i) If a qualified foreign limited partnership, the
26 address, including street and number, if any, of its
27 registered office in this Commonwealth.

28 (ii) If a nonqualified foreign limited partnership,
29 the address, including street and number, if any, of its
30 principal office under the laws of the jurisdiction in

1 which it is organized.

2 (2) The name and address, including street and number,
3 if any, of the registered office of each other domestic
4 limited partnership and qualified foreign limited partnership
5 that is a party to the plan.

6 (3) If the plan is to be effective on a specified date,
7 the hour, if any, and the month, day and year of the
8 effective date.

9 (4) The manner in which the plan was adopted by each
10 domestic limited partnership and, if one or more foreign
11 limited partnerships are parties to the plan, the fact that
12 the plan was authorized, adopted or approved, as the case may
13 be, by each of the foreign limited partnerships in accordance
14 with the laws of the jurisdiction in which it is organized.

15 (5) Except as provided in subsection (b), the plan of
16 merger or consolidation.

17 (b) Omission of certain provisions of plan of merger or
18 consolidation.--A certificate of merger or consolidation may
19 omit all provisions of the plan of merger or consolidation
20 except provisions, if any, that are intended to amend or
21 constitute the operative provisions of the certificate of
22 limited partnership of a limited partnership as in effect
23 subsequent to the effective date of the plan, if the certificate
24 of merger or consolidation states that the full text of the plan
25 is on file at the principal place of business of the surviving
26 or new limited partnership and states the address thereof. A
27 limited partnership that takes advantage of this subsection
28 shall furnish a copy of the full text of the plan, on request
29 and without cost, to any partner of any limited partnership that
30 was a party to the plan and, unless all parties to the plan had

1 fewer than 30 partners each, on request and at cost to any other
2 person.

3 (c) Filing of certificate of merger or consolidation.--The
4 certificate of merger or certificate of consolidation, as the
5 case may be, and the certificates or statement, if any, required
6 by section 139 (relating to tax clearance of certain fundamental
7 transactions) shall be filed in the department.

8 (d) Cross references.--See sections 134 (relating to
9 docketing statement) and 8514 (relating to execution of
10 certificates).

11 § 8548. Effective date of merger or consolidation.

12 Upon the filing of the certificate of merger or the
13 certificate of consolidation in the Department of State or upon
14 the effective date specified in the plan of merger or
15 consolidation, whichever is later, the merger or consolidation
16 shall be effective. The merger or consolidation of one or more
17 domestic limited partnerships into a foreign limited partnership
18 shall be effective according to the provisions of law of the
19 jurisdiction in which the foreign limited partnership is
20 organized, but not until a certificate of merger or certificate
21 of consolidation has been adopted and filed, as provided in this
22 subchapter.

23 § 8549. Effect of merger or consolidation.

24 (a) Single surviving or new limited partnership.--Upon the
25 merger or consolidation becoming effective, the several limited
26 partnerships parties to the plan of merger or consolidation
27 shall be a single limited partnership which, in the case of a
28 merger, shall be the limited partnership designated in the plan
29 of merger as the surviving limited partnership and, in the case
30 of a consolidation, shall be the new limited partnership

1 provided for in the plan of consolidation. The separate
2 existence of all limited partnerships parties to the plan of
3 merger or consolidation shall cease, except that of the
4 surviving limited partnership, in the case of a merger.

5 (b) Property rights.--All the property, real, personal and
6 mixed, of each of the limited partnerships parties to the plan
7 of merger or consolidation, and all debts due on whatever
8 account to any of them, as well as all other things and causes
9 of action belonging to any of them, shall be deemed to be vested
10 in and shall belong to the surviving or new limited partnership,
11 as the case may be, without further action, and the title to any
12 real estate, or any interest therein, vested in any of the
13 limited partnerships shall not revert or be in any way impaired
14 by reason of the merger or consolidation. The surviving or new
15 limited partnership shall thenceforth be responsible for all the
16 liabilities of each of the limited partnerships so merged or
17 consolidated. Liens upon the property of the merging or
18 consolidating limited partnerships shall not be impaired by the
19 merger or consolidation, and any claim existing or action or
20 proceeding pending by or against any of the limited partnerships
21 may be prosecuted to judgment as if the merger or consolidation
22 had not taken place or the surviving or new limited partnership
23 may be proceeded against or substituted in its place.

24 (c) Taxes.--Any taxes, interest, penalties and public
25 accounts of the Commonwealth claimed against any of the merging
26 or consolidating limited partnerships that are settled, assessed
27 or determined prior to or after the merger or consolidation
28 shall be the liability of the surviving or new limited
29 partnership and, together with interest thereon, shall be a lien
30 against the property, both real and personal, of the surviving

1 or new limited partnership.

2 (d) Certificate of limited partnership.--In the case of a
3 merger, the certificate of limited partnership of the surviving
4 domestic limited partnership, if any, shall be deemed to be
5 amended to the extent, if any, that changes in its certificate
6 of limited partnership are stated in the plan of merger. In the
7 case of a consolidation into a domestic limited partnership, the
8 statements that are set forth in the plan of consolidation, or
9 certificate of limited partnership set forth therein, shall be
10 deemed to be the certificate of limited partnership of the new
11 limited partnership.]

12 Section 52. Section 8571(c) of Title 15 is amended to read:
13 § 8571. Nonjudicial dissolution.

14 * * *

15 [(c) Dissolution by domestication.--Whenever a domestic
16 limited partnership has domesticated itself under the laws of
17 another jurisdiction by action similar to that provided by
18 section 8590 (relating to domestication) and has authorized that
19 action in the manner required by this subchapter for the
20 approval of a proposal that the partnership dissolve
21 voluntarily, the partnership may surrender its certificate of
22 limited partnership under the laws of this Commonwealth by
23 filing in the department a certificate of cancellation under
24 section 8513 (relating to cancellation of certificate). If the
25 partnership, as domesticated in the other jurisdiction,
26 registers to do business in this Commonwealth either prior to or
27 simultaneously with the filing of the certificate of
28 cancellation under this subsection, the partnership shall not be
29 required to file with the certificate of cancellation the tax
30 clearance certificates that would otherwise be required by

1 section 139 (relating to tax clearance of certain fundamental
2 transactions).]

3 * * *

4 Section 53. Subchapters J and K of Chapter 85 of Title 15
5 are repealed:

6 [SUBCHAPTER J

7 DIVISION

8 Sec.

9 8576. Division authorized.

10 8577. Proposal and adoption of plan of division.

11 8578. Division without approval of limited partners.

12 8579. Certificate of division.

13 8580. Effect of division.

14 § 8576. Division authorized.

15 (a) Division of domestic limited partnership.--Any domestic
16 limited partnership may, in the manner provided in this
17 subchapter, be divided into two or more domestic limited
18 partnerships organized or to be organized under this chapter or
19 into one or more domestic limited partnerships and one or more
20 foreign limited partnerships to be organized under the laws of
21 another jurisdiction or jurisdictions or into two or more
22 foreign limited partnerships if the laws of the other
23 jurisdictions authorize the division.

24 (b) Division of foreign limited partnership.--Any foreign
25 limited partnership may, in the manner provided in this
26 subchapter, be divided into one or more domestic limited
27 partnerships to be organized under this chapter and one or more
28 foreign limited partnerships organized or to be organized under
29 the laws of another jurisdiction or jurisdictions or into two or
30 more domestic limited partnerships if the foreign limited

1 partnership is authorized under the laws of the jurisdiction
2 under which it is organized to effect a division.

3 (c) Surviving and new limited partnerships.--The limited
4 partnership effecting a division, if it survives the division,
5 is designated in this subchapter as the surviving limited
6 partnership. All limited partnerships originally organized by a
7 division are designated in this subchapter as new limited
8 partnerships. The surviving limited partnership, if any, and the
9 new limited partnership or partnerships are collectively
10 designated in this subchapter as the resulting limited
11 partnerships.

12 § 8577. Proposal and adoption of plan of division.

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

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

17 (i) The reclassification of the partnership
18 interests in the surviving limited partnership, if there
19 be one, and, if any of the partnership interests in the
20 dividing limited partnership are not to be converted
21 solely into partnership interests or other securities or
22 obligations of one or more of the resulting limited
23 partnerships, the partnership interests or other
24 securities or obligations of any other person or cash,
25 property or rights that the holders of the partnership
26 interests are to receive in exchange for or upon
27 conversion of the partnership interests and the surrender
28 of any certificates evidencing them, which securities or
29 obligations, if any, of any other person or cash,
30 property or rights may be in addition to or in lieu of

1 partnership interests or other securities or obligations
2 of one or more of the resulting limited partnerships.

3 (ii) The disposition of the partnership interests
4 and other securities or obligations, if any, of the new
5 limited partnership or partnerships resulting from the
6 division.

7 (2) A statement that the dividing limited partnership
8 will or will not survive the division.

9 (3) Any changes desired to be made in the certificate of
10 limited partnership of the surviving limited partnership, if
11 there be one, including a restatement of the certificate.

12 (4) The certificates of limited partnership required by
13 subsection (c).

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

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

23 (c) Certificates of limited partnership of new limited
24 partnerships.--There shall be included in or annexed to the plan
25 of division:

26 (1) Certificates of limited partnership, which shall
27 contain all of the statements required by this chapter to be
28 set forth in a restated certificate of limited partnership
29 for each of the new domestic limited partnerships, if any,
30 resulting from the division.

1 (2) Certificates of limited partnership or other
2 organizational documents for each of the new foreign limited
3 partnerships, if any, resulting from the division.

4 (d) Proposal and adoption.--Except as otherwise provided in
5 section 8578 (relating to division without approval of limited
6 partners), the plan of division shall be proposed and adopted
7 and may be amended after its adoption and termination by a
8 domestic limited partnership in the manner provided for the
9 proposal, adoption, amendment and termination of a plan of
10 merger in Subchapter F (relating to merger and consolidation),
11 except section 8546(g) (relating to approval of merger or
12 consolidation) or, if the dividing limited partnership is a
13 foreign limited partnership, in accordance with the laws of the
14 jurisdiction in which it is organized. There shall be included
15 in or enclosed with the notice of the meeting of limited
16 partners to act on the plan, a copy or a summary of the plan.

17 (f) Rights of holders of indebtedness.--If any such debt
18 securities, notes, similar evidences of indebtedness, indentures
19 or other contracts were issued, incurred or executed by the
20 dividing limited partnership before August 21, 2001, and have
21 not been amended subsequent to that date, the liability of the
22 dividing limited partnership thereunder shall not be affected by
23 the division nor shall the rights of the obligees thereunder be
24 impaired by the division, and each of the resulting limited
25 partnerships may be proceeded against or substituted in place of
26 the dividing limited partnership as joint and several obligors
27 on such liability, regardless of any provision of the plan of
28 division apportioning the liabilities of the dividing limited
29 partnership.

30 (g) Special requirements.--If any provision of the

1 certificate of limited partnership or partnership agreement of a
2 dividing domestic limited partnership adopted before February 5,
3 1995, requires for the proposal or adoption of a plan of merger
4 or consolidation a specific number or percentage of votes of
5 general or limited partners or other special procedures, the
6 plan of division shall not be proposed or adopted by the general
7 or limited partners without that number or percentage of votes
8 or compliance with the other special procedures.

9 § 8578. Division without approval of limited partners.

10 Unless otherwise restricted by its partnership agreement, a
11 plan of division that does not alter the state of organization
12 of a limited partnership nor amend in any respect the provisions
13 of its certificate of limited partnership or partnership
14 agreement (except amendments that may be made without action by
15 the limited partners) shall not require the approval of the
16 limited partners of the limited partnership if:

17 (1) the dividing limited partnership survives the
18 division and all the partnership interests and other
19 securities and obligations, if any, of all new limited
20 partnerships resulting from the plan are owned solely by the
21 surviving limited partnership; or

22 (2) the transfers of assets effected by the division, if
23 effected by means of a sale, lease, exchange or other
24 disposition, would not require the approval of the limited
25 partners.

26 § 8579. Certificate of division.

27 (a) Contents.--Upon the adoption of a plan of division by
28 the limited partnership desiring to divide, as provided in this
29 subchapter, a certificate of division shall be executed by the
30 limited partnership and shall, subject to section 109 (relating

1 to name of commercial registered office provider in lieu of
2 registered address), set forth:

3 (1) The name and the location of the registered office,
4 including street and number, if any, of the dividing domestic
5 limited partnership or, in the case of a dividing foreign
6 limited partnership, the name of the limited partnership and
7 the jurisdiction in which it is organized, together with
8 either:

9 (i) If a qualified foreign limited partnership, the
10 address, including street and number, if any, of its
11 registered office in this Commonwealth.

12 (ii) If a nonqualified foreign limited partnership,
13 the address, including street and number, if any, of its
14 principal office under the laws of that jurisdiction.

15 (2) The statute under which the dividing limited
16 partnership was organized and the date of organization.

17 (3) A statement that the dividing limited partnership
18 will or will not survive the division.

19 (4) The name and the address, including street and
20 number, if any, of the registered office of each new domestic
21 limited partnership or qualified foreign limited partnership
22 resulting from the division.

23 (5) If the plan is to be effective on a specific date,
24 the hour, if any, and the month, day and year of the
25 effective date.

26 (6) The manner in which the plan was adopted by the
27 limited partnership.

28 (7) The plan of division.

29 (b) Filing.--The certificate of division and the
30 certificates or statement, if any, required by section 139

1 (relating to tax clearance of certain fundamental transactions)
2 shall be filed in the Department of State.

3 (c) Effective date of certificate of division.--Upon the
4 filing of a certificate of division in the Department of State
5 or upon the effective date specified in the plan of division,
6 whichever is later, the division shall become effective. The
7 division of a domestic limited partnership into one or more
8 foreign limited partnerships or the division of a foreign
9 limited partnership shall be effective according to the laws of
10 the jurisdictions where the foreign limited partnerships are or
11 are to be organized, but not until a certificate of division has
12 been adopted and filed as provided in this subchapter.

13 (d) Cross references.--See sections 134 (relating to
14 docketing statement), 135 (relating to requirements to be met by
15 filed documents) and 8514 (relating to execution of
16 certificates).

17 § 8580. Effect of division.

18 (a) Multiple resulting limited partnerships.--Upon the
19 division becoming effective, the dividing limited partnership
20 shall be subdivided into the distinct and independent resulting
21 limited partnerships named in the plan of division, and, if the
22 dividing limited partnership is not to survive the division, the
23 existence of the dividing limited partnership shall cease. The
24 resulting limited partnerships, if they are domestic limited
25 partnerships, shall not thereby acquire authority to engage in
26 any business or exercise any right that a limited partnership
27 may not be organized under this chapter to engage in or
28 exercise. Any resulting foreign limited partnership that is
29 stated in the certificate of division to be a qualified foreign
30 limited partnership shall be a qualified foreign limited

1 partnership under Subchapter K (relating to foreign limited
2 partnerships), and the certificate of division shall be deemed
3 to be the application for registration as a foreign limited
4 partnership of the limited partnership.

5 (b) Property rights; allocations of assets and
6 liabilities.--

7 (1) (i) All the property, real, personal and mixed, of
8 the dividing limited partnership, and all debts due on
9 whatever account to it, including subscriptions for
10 partnership interests or other causes of action belonging
11 to it, shall, except as otherwise provided in paragraph
12 (2), to the extent allocations of assets are contemplated
13 by the plan of division, be deemed without further action
14 to be allocated to and vested in the resulting limited
15 partnerships on such a manner and basis and with such
16 effect as is specified in the plan, or per capita among
17 the resulting limited partnerships, as tenants in common,
18 if no specification is made in the plan, and the title to
19 any real estate or interest therein vested in any of the
20 limited partnerships shall not revert or be in any way
21 impaired by reason of the division.

22 (ii) Upon the division becoming effective, the
23 resulting limited partnerships shall each thenceforth be
24 responsible as separate and distinct limited partnerships
25 only for such liabilities as each limited partnership may
26 undertake or incur in its own name but shall be liable
27 for the liabilities of the dividing limited partnership
28 in the manner and on the basis provided in subparagraphs
29 (iv) and (v).

30 (iii) Liens upon the property of the dividing

1 limited partnership shall not be impaired by the
2 division.

3 (iv) To the extent allocations of liabilities are
4 contemplated by the plan of division, the liabilities of
5 the dividing limited partnership shall be deemed without
6 further action to be allocated to and become the
7 liabilities of the resulting limited partnerships on such
8 a manner and basis and with such effect as is specified
9 in the plan; and one or more but less than all of the
10 resulting limited partnerships shall be free of the
11 liabilities of the dividing limited partnership to the
12 extent, if any, specified in the plan if in either case:

13 (A) no fraud of partners or violation of law
14 shall be effected thereby; and

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

18 (v) If the conditions in subparagraph (iv) for
19 freeing one or more of the resulting limited partnerships
20 from the liabilities of the dividing limited partnership,
21 or for allocating some or all of the liabilities of the
22 dividing limited partnership, are not satisfied, the
23 liabilities of the dividing limited partnership as to
24 which those conditions are not satisfied shall not be
25 affected by the division nor shall the rights of
26 creditors thereunder or of any person dealing with the
27 limited partnership be impaired by the division, and any
28 claim existing or action or proceeding pending by or
29 against the limited partnership with respect to those
30 liabilities may be prosecuted to judgment as if the

1 division had not taken place, or the resulting limited
2 partnerships may be proceeded against or substituted in
3 place of the dividing limited partnership as joint and
4 several obligors on those liabilities, regardless of any
5 provision of the plan of division apportioning the
6 liabilities of the dividing limited partnership.

7 (vi) The conditions in subparagraph (iv) for freeing
8 one or more of the resulting limited partnerships from
9 the liabilities of the dividing limited partnership and
10 for allocating some or all of the liabilities of the
11 dividing limited partnership shall be conclusively deemed
12 to have been satisfied if the plan of division has been
13 approved by the Pennsylvania Public Utility Commission in
14 a final order issued after August 21, 2001, that has
15 become not subject to further appeal.

16 (2) (i) The allocation of any fee or freehold interest
17 or leasehold having a remaining term of 30 years or more
18 in any tract or parcel of real property situate in this
19 Commonwealth owned by a dividing limited partnership
20 (including property owned by a foreign limited
21 partnership dividing solely under the law of another
22 jurisdiction) to a new limited partnership resulting from
23 the division shall not be effective until one of the
24 following documents is filed in the office for the
25 recording of deeds of the county, or each of them, in
26 which the tract or parcel is situated:

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

29 (B) A duly executed duplicate original copy of
30 the certificate of division.

1 (C) A copy of the certificate of division
2 certified by the Department of State.

3 (D) A declaration of acquisition setting forth
4 the value of real estate holdings in the county of
5 the limited partnership as an acquired company.

6 (ii) The provisions of 75 Pa.C.S. § 1114 (relating
7 to transfer of vehicle by operation of law) shall not be
8 applicable to an allocation of ownership of any motor
9 vehicle, trailer or semitrailer to a new limited
10 partnership under this section or under a similar law of
11 any other jurisdiction, but any such allocation shall be
12 effective only upon compliance with the requirements of
13 75 Pa.C.S. § 1116 (relating to issuance of new
14 certificate following transfer).

15 (3) It shall not be necessary for a plan of division to
16 list each individual asset or liability of the dividing
17 limited partnership to be allocated to a new limited
18 partnership so long as those assets and liabilities are
19 described in a reasonable and customary manner.

20 (4) Each new limited partnership shall hold any assets
21 and liabilities allocated to it as the successor to the
22 dividing limited partnership, and those assets and
23 liabilities shall not be deemed to have been assigned to the
24 new limited partnership in any manner, whether directly or
25 indirectly or by operation of law.

26 (c) Taxes.--Any taxes, interest, penalties and public
27 accounts of the Commonwealth claimed against the dividing
28 limited partnership that are settled, assessed or determined
29 prior to or after the division shall be the liability of any of
30 the resulting limited partnerships and, together with interest

1 thereon, shall be a lien against the franchises and property,
2 both real and personal, of all the limited partnerships. Upon
3 the application of the dividing limited partnership, the
4 Department of Revenue, with the concurrence of the Office of
5 Employment Security of the Department of Labor and Industry,
6 shall release one or more, but less than all, of the resulting
7 limited partnerships from liability and liens for all taxes,
8 interest, penalties and public accounts of the dividing limited
9 partnership due the Commonwealth for periods prior to the
10 effective date of the division if those departments are
11 satisfied that the public revenues will be adequately secured.

12 (d) Certificate of limited partnership of surviving limited
13 partnership.--The certificate of limited partnership of the
14 surviving limited partnership, if there be one, shall be deemed
15 to be amended to the extent, if any, that changes in its
16 certificate of limited partnership are stated in the plan of
17 division.

18 (e) Certificates of limited partnership of new limited
19 partnerships.--The statements that are set forth in the plan of
20 division with respect to each new domestic limited partnership
21 and that are required or permitted to be set forth in a restated
22 certificate of limited partnership of limited partnerships
23 organized under this chapter, or the certificate of limited
24 partnership of each new limited partnership set forth therein,
25 shall be deemed to be the certificate of limited partnership of
26 each new limited partnership.

27 (f) Disposition of partnership interests.--Unless otherwise
28 provided in the plan, the partnership interests and other
29 securities or obligations, if any, of each new limited
30 partnership resulting from the division shall be distributable

1 to:

2 (1) the surviving limited partnership if the dividing
3 limited partnership survives the division; or

4 (2) the partners of the dividing limited partnership in
5 the proportions in which the partners share in distributions,
6 in any other case.

7 (g) Conflict of laws.--It is the intent of the General
8 Assembly that:

9 (1) The effect of a division of a domestic limited
10 partnership shall be governed solely by the laws of this
11 Commonwealth and any other jurisdiction under the laws of
12 which any of the resulting limited partnerships is organized.

13 (2) The effect of a division on the assets and
14 liabilities of the dividing limited partnership shall be
15 governed solely by the laws of this Commonwealth and any
16 other jurisdiction under the laws of which any of the
17 resulting limited partnerships is organized.

18 (3) The validity of any allocations of assets or
19 liabilities by a plan of division of a domestic limited
20 partnership, regardless of whether or not any of the new
21 limited partnerships is a foreign limited partnership, shall
22 be governed solely by the laws of this Commonwealth.

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

27 SUBCHAPTER K

28 FOREIGN LIMITED PARTNERSHIPS

29 Sec.

30 8581. Governing law.

1 8582. Registration.
2 8583. Effect of filing.
3 8584. Name.
4 8585. Changes and amendments.
5 8586. Cancellation of registration.
6 8587. Doing business without registration.
7 8588. Action by Attorney General.
8 8589. General powers and duties of qualified foreign limited
9 partnerships.
10 8590. Domestication.

11 § 8581. Governing law.

12 Subject to the Constitution of Pennsylvania:

13 (1) The laws of the jurisdiction under which a foreign
14 limited partnership is organized govern its organization and
15 internal affairs and the liability of its limited partners.

16 (2) A foreign limited partnership may not be denied
17 registration by reason of any difference between those laws
18 and the laws of this Commonwealth.

19 § 8582. Registration.

20 (a) General rule.--Before doing business in this
21 Commonwealth, a foreign limited partnership shall register under
22 this subchapter. In order to register, a foreign limited
23 partnership shall execute and file in the Department of State an
24 application for registration as a foreign limited partnership
25 setting forth:

26 (1) The name of the foreign limited partnership and, if
27 different, the name under which it proposes to register and
28 do business in this Commonwealth.

29 (2) The jurisdiction and date of its formation.

30 (3) Subject to section 109 (relating to name of

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

4 (4) The address of the office required to be maintained
5 in the jurisdiction of its organization by the laws of that
6 jurisdiction or, if not so required, of the principal office
7 of the foreign limited partnership.

8 (5) The name and business address of each general
9 partner.

10 (6) The address of the office at which is kept a list of
11 the names and addresses of the limited partners and their
12 capital contributions, together with an undertaking by the
13 foreign limited partnership to keep those records until the
14 registration of the foreign limited partnership in this
15 Commonwealth is canceled or withdrawn.

16 (b) Exceptions.--None of the activities described in section
17 4122 (relating to excluded activities) shall be considered doing
18 business in this Commonwealth for the purposes of this
19 subchapter.

20 (c) Cross references.--See sections 134 (relating to
21 docketing statement) and 8514 (relating to execution of
22 certificates).

23 § 8583. Effect of filing.

24 Upon the filing of the application for registration as a
25 foreign limited partnership, the partnership shall be authorized
26 to do business in this Commonwealth.

27 § 8584. Name.

28 (a) General rule.--A foreign limited partnership may
29 register with the Department of State under any name (whether or
30 not it is the name under which it is registered in its

1 jurisdiction of organization) that could be used by a domestic
2 limited partnership.

3 (b) Cross reference.--See section 8505 (relating to name).
4 § 8585. Changes and amendments.

5 (a) General rule.--If any arrangements or other facts
6 described in the application for registration of a foreign
7 limited partnership have changed, making the application
8 inaccurate in any material respect, the foreign limited
9 partnership shall promptly execute and file in the Department of
10 State a certificate of amendment of registration setting forth:

11 (1) The name under which the foreign limited partnership
12 is registered to do business in this Commonwealth.

13 (2) Subject to section 109 (relating to name of
14 commercial registered office provider in lieu of registered
15 address), the address, including street and number, if any,
16 of its registered office in this Commonwealth.

17 (3) The arrangements or other facts that have changed.

18 (b) Effect of filing.--The application for registration as a
19 foreign limited partnership shall be amended upon filing of the
20 certificate of amendment of registration in the department.

21 (c) Cross references.--See sections 134 (relating to
22 docketing statement), 138 (relating to statement of correction)
23 and 8514 (relating to execution of certificates).

24 § 8586. Cancellation of registration.

25 (a) General rule.--A qualified foreign limited partnership
26 may cancel its registration by executing and filing in the
27 Department of State a certificate of cancellation of
28 registration setting forth:

29 (1) The name under which the foreign limited partnership
30 is registered to do business in this Commonwealth.

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 last registered office in this Commonwealth.

5 (3) The name of the jurisdiction under the laws of which
6 it is organized.

7 (4) The date on which it registered to do business in
8 this Commonwealth.

9 (5) A statement that it withdraws from doing business in
10 this Commonwealth.

11 (6) A statement that notice of its intention to withdraw
12 from doing business in this Commonwealth was mailed by
13 certified or registered mail to each municipal corporation in
14 which the registered office or principal place of business of
15 the foreign limited partnership in this Commonwealth is
16 located.

17 (7) The post office address, including street and
18 number, if any, to which process may be sent in an action
19 upon any liability incurred before the filing of the
20 certificate of cancellation of registration.

21 (b) Filing.--The certificate of cancellation of registration
22 and the certificates or statement required by section 139
23 (relating to tax clearance of certain fundamental transactions)
24 shall be filed in the department.

25 (c) Effect of filing.--Upon the filing of the certificate of
26 cancellation of registration, the authority of the foreign
27 limited partnership to do business in this Commonwealth shall
28 cease. The termination of authority shall not affect any action
29 pending at the time thereof or affect any right of action
30 arising with respect to the foreign limited partnership before

1 the filing of the certificate of cancellation of registration.
2 Process against the foreign limited partnership in an action
3 upon any liability incurred before the filing of the certificate
4 of cancellation of registration may be served as provided in 42
5 Pa.C.S. Ch. 53 (relating to bases of jurisdiction and interstate
6 and international procedure) or as otherwise provided or
7 prescribed by law.

8 (d) Cross references.--See sections 134 (relating to
9 docketing statement) and 8514 (relating to execution of
10 certificates).

11 § 8587. Doing business without registration.

12 (a) Maintenance of actions or proceedings prohibited.--A
13 nonqualified foreign limited partnership doing business in this
14 Commonwealth may not maintain any action or proceeding in any
15 court of this Commonwealth until it has registered under this
16 subchapter, nor, except as provided in subsection (b), shall any
17 action or proceeding be maintained in any court of this
18 Commonwealth on any right, claim or demand arising out of the
19 doing of business by the foreign limited partnership in this
20 Commonwealth by any successor, assignee or acquiror of all or
21 substantially all of the assets of the foreign limited
22 partnership that is a foreign corporation for profit or not-for-
23 profit or a foreign limited partnership until such foreign
24 corporation or foreign limited partnership has been authorized
25 to do business in this Commonwealth.

26 (b) Contracts, property and defense of actions unaffected.--
27 The failure of a foreign limited partnership to register under
28 this subchapter shall not impair the validity of any contract or
29 act of the foreign limited partnership, shall not prevent the
30 foreign limited partnership from defending any action in any

1 court of this Commonwealth and shall not render escheatable any
2 of its real or personal property.

3 (c) Liability of limited partner.--A limited partner of a
4 foreign limited partnership is not liable as a general partner
5 of the foreign limited partnership solely by reason of the
6 foreign limited partnership having done business in this
7 Commonwealth without registration under this subchapter.

8 (d) Acquisition of real and personal property.--Every
9 nonqualified foreign limited partnership may acquire, hold,
10 mortgage, lease and transfer real and personal property in this
11 Commonwealth in the same manner and subject to the same
12 limitations as a qualified foreign limited partnership.

13 (e) Duties.--Except as provided in subsection (a), a
14 nonqualified foreign limited partnership doing business in this
15 Commonwealth shall be subject to the same liabilities,
16 restrictions, duties and penalties now or hereafter imposed upon
17 a qualified foreign limited partnership.

18 § 8588. Action by Attorney General.

19 The Attorney General may bring an action to restrain a
20 foreign limited partnership from doing business in this
21 Commonwealth in violation of this subchapter.

22 § 8589. General powers and duties of qualified foreign limited
23 partnerships.

24 (a) General rule.--A qualified foreign limited partnership,
25 so long as its registration under this subchapter is not
26 canceled or revoked, shall enjoy the same rights and privileges
27 as a domestic limited partnership, but no more, and, except as
28 in this part otherwise provided, shall be subject to the same
29 liabilities, restrictions, duties and penalties now in force or
30 hereafter imposed upon domestic limited partnerships, to the

1 same extent as if it had been formed under this chapter.

2 (b) Agricultural lands.--Interests in agricultural land
3 shall be subject to the restrictions of, and escheatable as
4 provided by, the act of April 6, 1980 (P.L.102, No.39), referred
5 to as the Agricultural Land Acquisition by Aliens Law.

6 § 8590. Domestication.

7 (a) General rule.--Any qualified foreign limited partnership
8 may become a domestic limited partnership by filing in the
9 Department of State a certificate of domestication. The
10 certificate of domestication, upon being filed in the
11 department, shall constitute the certificate of limited
12 partnership of the domesticated foreign limited partnership, and
13 it shall thereafter continue as a limited partnership which
14 shall be a domestic limited partnership subject to this chapter.

15 (b) Certificate of domestication.--The certificate of
16 domestication shall be executed by the limited partnership and
17 shall set forth in the English language:

18 (1) The name of the limited partnership. If the name is
19 in a foreign language, it shall be set forth in Roman letters
20 or characters or Arabic or Roman numerals. If the name is one
21 that is rendered unavailable for use by any provision of
22 section 8505 (relating to name), the limited partnership
23 shall adopt, in accordance with any procedures for changing
24 the name of the limited partnership that are applicable prior
25 to the domestication of the limited partnership, and shall
26 set forth in the certificate of domestication an available
27 name.

28 (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,

1 of its registered office in this Commonwealth.

2 (3) A statement that upon domestication the limited
3 partnership will be subject to the domestic limited
4 partnership provisions of the Pennsylvania Revised Uniform
5 Limited Partnership Act and, if desired, a brief statement of
6 the purpose or purposes for which it is to be domesticated,
7 which shall be a purpose or purposes for which a domestic
8 limited partnership may be organized under this chapter and
9 which may consist of or include a statement that the limited
10 partnership shall have unlimited power to engage in and to do
11 any lawful act concerning any or all lawful business for
12 which limited partnerships may be organized under the
13 Pennsylvania Revised Uniform Limited Partnership Act.

14 (4) Any desired provisions relating to the manner and
15 basis of reclassifying the partnership interests in the
16 limited partnership.

17 (5) A statement that the filing of the certificate of
18 domestication and, if desired, the renunciation of the
19 original certificate of limited partnership of the limited
20 partnership has been authorized (unless its certificate of
21 limited partnership or other organic documents require a
22 greater vote) by a majority of the votes cast by all partners
23 entitled to vote thereon and, if any class of partners is
24 entitled to vote thereon as a class, a majority of the votes
25 cast in each class vote.

26 (6) Any other provisions authorized by this chapter to
27 be set forth in an original certificate of limited
28 partnership.

29 See sections 134 (relating to docketing statement), 135
30 (relating to requirements to be met by filed documents) and 8514

1 (relating to execution of certificates).

2 (c) Effect of domestication.--

3 (1) As a domestic limited partnership, the domesticated
4 limited partnership shall no longer be a foreign limited
5 partnership for the purposes of this chapter and shall
6 instead be a domestic limited partnership with all the powers
7 and privileges and all the duties and limitations granted and
8 imposed upon domestic limited partnerships. In all other
9 respects, the domesticated limited partnership shall be
10 deemed to be the same limited partnership as it was prior to
11 the domestication without any change in or effect on its
12 existence. Without limiting the generality of the previous
13 sentence, the domestication shall not be deemed to have
14 dissolved the limited partnership or to have affected in any
15 way:

16 (i) the right and title of the limited partnership
17 in and to its assets, property, franchises, estates and
18 choses in action;

19 (ii) the liability of the limited partnership for
20 its debts, obligations, penalties and public accounts due
21 the Commonwealth;

22 (iii) any liens or other encumbrances on the
23 property or assets of the limited partnership; or

24 (iv) any contract, license or other agreement to
25 which the limited partnership is a party or under which
26 it has any rights or obligations.

27 (2) The partnership interests in the domesticated
28 limited partnership shall be unaffected by the domestication
29 except to the extent, if any, reclassified in the certificate
30 of domestication.]

1 Section 54. The definitions of "certificate of
2 organization," "foreign limited liability company" and
3 "qualified foreign limited liability company" in section 8903(a)
4 of Title 15 are amended to read:

5 § 8903. Definitions and index of definitions.

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

9 "Certificate of organization." The certificate of
10 organization referred to in section 8913 (relating to
11 certificate of organization) and the certificate of organization
12 as amended. The term includes any other statements or
13 certificates permitted or required to be filed in the Department
14 of State by sections 108 (relating to change in location or
15 status of registered office provided by agent) and 138 (relating
16 to statement of correction), Chapter 3 (relating to entity
17 transactions) or this part. If an amendment of the certificate
18 of organization or a [certificate of merger or division made in
19 the manner permitted by this chapter] statement filed under
20 Chapter 3 restates the certificate of organization in its
21 entirety [or if there is a certificate of consolidation or
22 domestication], thenceforth the certificate of organization
23 shall not include any prior documents, and any certificate
24 issued by the Department of State with respect thereto shall so
25 state.

26 * * *

27 "Foreign limited liability company." An association
28 organized under the laws of any jurisdiction other than this
29 Commonwealth, whether or not required to register under
30 [Subchapter J (relating to foreign companies)] Chapter 4

1 (relating to foreign associations), which would be a limited
2 liability company if organized under the laws of this
3 Commonwealth.

4 * * *

5 "Qualified foreign limited liability company." A foreign
6 limited liability company that is registered under [Subchapter J
7 (relating to foreign companies) to do business in this
8 Commonwealth] Chapter 4 (relating to foreign associations).

9 * * *

10 Section 55. Sections 8905 and 8908 and Subchapters G and H
11 of Chapter 89 and section 8978 and Subchapter J of Chapter 89 of
12 Title 15 are repealed:

13 [§ 8905. Name.

14 (a) General rule.--The name of each limited liability
15 company as set forth in its certificate of organization shall:

16 (1) Be expressed in Roman letters or characters or
17 Arabic or Roman numerals.

18 (2) Not be one rendered unavailable for use by a
19 corporation by any provision of section 1303(b) and (c)
20 (relating to corporate name).

21 (3) Contain the term "company," "limited" or "limited
22 liability company" or an abbreviation of one of those terms.

23 (b) Reservation of name.--The exclusive right to the use of
24 a name for purposes of this chapter may be reserved and
25 transferred in the manner provided by section 1305 (relating to
26 reservation of corporate name).

27 § 8908. Election of professional association to become limited
28 liability company.

29 (a) General rule.--This chapter applies to every
30 professional association subject to Chapter 93 (relating to

1 professional associations) that elects to accept the provisions
2 of this chapter in the manner set forth in subsection (b).

3 (b) Procedure for election.--A professional association may
4 elect to accept this chapter by filing in the Department of
5 State a certificate of election of limited liability company
6 status which shall be executed by all of the associates of the
7 professional association and shall set forth:

8 (1) The name of the professional association.

9 (2) The name of the county in the office of the
10 prothonotary of which the initial articles of association of
11 the association were filed.

12 (3) A statement that the associates of the professional
13 association have elected to accept the provisions of this
14 chapter for the government and regulation of the affairs of
15 the association.

16 (4) The provisions that shall constitute the initial
17 certificate of organization of the limited liability company
18 resulting from the filing, which may include such amendments
19 to the articles of association of the professional
20 association as the associates may choose to adopt.

21 See sections 134 (relating to docketing statement) and 135
22 (relating to requirements to be met by filed documents).

23 (c) Date of organization.--This chapter shall become
24 applicable to the professional association, and it shall be
25 deemed organized as a limited liability company, on the date the
26 certificate of election is filed in the department.

27 SUBCHAPTER G

28 MERGERS AND CONSOLIDATIONS

29 Sec.

30 8956. Merger and consolidation of limited liability companies

1 authorized.

2 8957. Approval of merger or consolidation.

3 8958. Certificate of merger or consolidation.

4 8959. Effect of merger or consolidation.

5 § 8956. Merger and consolidation of limited liability companies
6 authorized.

7 (a) Domestic surviving or new limited liability company.--

8 Any two or more domestic limited liability companies, or any two
9 or more foreign limited liability companies, or any one or more
10 domestic limited liability companies and any one or more foreign
11 limited liability companies, may, in the manner provided in this
12 subchapter, be merged into one of the domestic limited liability
13 companies designated in this subchapter as the surviving limited
14 liability company, or consolidated into a new limited liability
15 company to be formed under this chapter, if the foreign limited
16 liability companies are authorized by the laws of the
17 jurisdiction under which they are organized to effect a merger
18 or consolidation with a limited liability company of another
19 jurisdiction.

20 (b) Foreign surviving or new limited liability company.--Any
21 one or more domestic limited liability companies and any one or
22 more foreign limited liability companies may, in the manner
23 provided in this subchapter, be merged into one of the foreign
24 limited liability companies designated in this subchapter as the
25 surviving limited liability company, or consolidated into a new
26 limited liability company to be organized under the laws of the
27 jurisdiction under which one of the foreign limited liability
28 companies is organized, if the laws of that jurisdiction
29 authorize a merger with or consolidation into a limited
30 liability company of another jurisdiction.

1 (c) Business trusts and other associations.--The provisions
2 of this subchapter applicable to domestic and foreign limited
3 liability companies shall also be applicable to a merger or
4 consolidation to which a domestic limited liability company is a
5 party or in which such a company is the resulting entity with or
6 into a domestic or foreign corporation, partnership, business
7 trust or other association. The surviving or resulting entity in
8 such a merger or consolidation may be a corporation,
9 partnership, business trust or other association. Except as
10 otherwise provided by law in this Commonwealth or any other
11 jurisdiction, the powers and duties vested in and imposed upon
12 the managers and members in this subchapter shall be exercised
13 and performed by the group of persons under the direction of
14 whom the business and affairs of the corporation, partnership,
15 business trust or other association are managed and the holders
16 or owners of shares or other interests in the corporation,
17 partnership, business trust or other association, respectively,
18 irrespective of the names by which the managing group and the
19 holders or owners of shares or other interests are designated.
20 The units into which the shares or other interests in the
21 corporation, partnership, business trust or other association
22 are divided shall be deemed to be membership interests for the
23 purposes of applying the provisions of this subchapter to a
24 merger or consolidation involving the corporation, partnership,
25 business trust or other association.

26 § 8957. Approval of merger or consolidation.

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

30 (1) The terms and conditions of the merger or

1 consolidation.

2 (2) If the surviving or new limited liability company is
3 or is to be a domestic limited liability company:

4 (i) in the case of a merger, any changes desired to
5 be made in the certificate of organization or operating
6 agreement, which may include a restatement of either or
7 both; or

8 (ii) in the case of a consolidation:

9 (A) all of the statements required by this
10 chapter to be set forth in a restated certificate of
11 organization; and

12 (B) the written provisions, if any, of the
13 operating agreement.

14 (3) The manner and basis of converting the membership
15 interests of each company into membership interests,
16 securities or obligations of the surviving or new company, as
17 the case may be, and, if any of the membership interests of
18 any of the companies that are parties to the merger or
19 consolidation are not to be converted solely into membership
20 interests, securities or obligations of the surviving or new
21 company, the membership interests, securities or obligations
22 of any other person or cash, property or rights that the
23 holders of such membership interests are to receive in
24 exchange for, or upon conversion of, such membership
25 interests, and the surrender of any certificates evidencing
26 them, which securities or obligations, if any, of any other
27 person or cash, property or rights may be in addition to or
28 in lieu of the membership interests, securities or
29 obligations of the surviving or new company.

30 (4) Such other provisions as are deemed desirable.

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

8 (c) Post-adoption amendment of plan of merger or
9 consolidation.--A plan of merger or consolidation may contain a
10 provision that the managers, if any, of the constituent
11 companies may amend the plan at any time prior to its effective
12 date, except that an amendment made subsequent to any adoption
13 of the plan by the members of any constituent domestic company
14 shall not, without the approval of the members, change:

15 (1) The amount or kind of membership interests,
16 obligations, cash, property or rights to be received in
17 exchange for or on conversion of all or any of the membership
18 interests of the constituent domestic company adversely to
19 the holders of those membership interests.

20 (2) Any provision of the certificate of organization or
21 operating agreement of the surviving or new company as it is
22 to be in effect immediately following consummation of the
23 merger or consolidation except provisions that may be amended
24 without the approval of the members.

25 (3) Any of the other terms and conditions of the plan if
26 the change would adversely affect the holders of any
27 membership interests of the constituent domestic company.

28 (d) Proposal of merger or consolidation.--Every merger or
29 consolidation shall be proposed, in the case of each domestic
30 limited liability company that is managed by one or more

1 managers, by the adoption by the managers of a resolution
2 approving the plan of merger or consolidation and, in any other
3 case, in accordance with any applicable procedures specified in
4 the operating agreement. Except where the approval of the
5 members is unnecessary under this subchapter or the operating
6 agreement, the plan shall be submitted to a vote of the members
7 entitled to vote thereon at a regular or special meeting of the
8 members.

9 (e) Party to plan.--An association that approves a plan in
10 its capacity as a member or creditor of a merging or
11 consolidating company or that furnishes all or a part of the
12 consideration contemplated by a plan does not thereby become a
13 party to the merger or consolidation for the purposes of this
14 subchapter.

15 (f) Notice of meeting of members.--Written notice of the
16 meeting of members that will act on the proposed plan shall be
17 given to each member of record, whether or not entitled to vote
18 thereon, of each domestic limited liability company that is a
19 party to the merger or consolidation. There shall be included in
20 or 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 any provision of the certificate of organization or
23 operating agreement.

24 (g) Adoption of plan by members.--The plan of merger or
25 consolidation shall be adopted upon receiving a majority of the
26 votes cast by all members, if any, entitled to vote thereon of
27 each of the domestic limited liability companies that is a party
28 to the merger or consolidation and, if any class of members is
29 entitled to vote thereon as a class, a majority of the votes
30 cast in each class vote. A proposed plan of merger or

1 consolidation shall not be deemed to have been adopted by a
2 company that is managed by one or more managers unless it has
3 also been approved by the managers, regardless of the fact that
4 the managers have directed or suffered the submission of the
5 plan to the members for action.

6 (h) Adoption by managers.--

7 (1) Unless otherwise required by a written provision of
8 the operating agreement, a plan of merger or consolidation
9 shall not require the approval of the members of a company
10 that is managed by one or more managers if:

11 (i) the plan, whether or not the company is the
12 surviving company, does not alter the status of the
13 company as a domestic limited liability company or alter
14 in any respect the provisions of its certificate of
15 organization or operating agreement, except changes that
16 may be made without action by the members; and

17 (ii) each membership interest outstanding
18 immediately prior to the effective date of the merger or
19 consolidation is to continue as or to be converted into,
20 except as may be otherwise agreed by the holder thereof,
21 an identical membership interest in the surviving or new
22 company after the effective date of the merger or
23 consolidation.

24 (2) If a merger or consolidation is effected pursuant to
25 paragraph (1), the plan of merger or consolidation shall be
26 deemed adopted by the company when it has been adopted by the
27 managers pursuant to subsection (d).

28 (i) Termination of plan.--Prior to the time when a merger or
29 consolidation becomes effective, the merger or consolidation may
30 be terminated pursuant to provisions therefor, if any, set forth

1 in the plan. If a certificate of merger or consolidation has
2 been filed in the department prior to the termination, a
3 certificate of termination executed by each company that is a
4 party to the merger or consolidation, unless the plan permits
5 termination by less than all of the companies, in which case the
6 certificate shall be executed on behalf of the company
7 exercising the right to terminate, shall be filed in the
8 department. The certificate of termination shall set forth:

9 (1) A copy of the certificate of merger or consolidation
10 relating to the plan that is terminated.

11 (2) A statement that the plan has been terminated in
12 accordance with the provisions therefor set forth therein.

13 See sections 134 (relating to docketing statement), 135
14 (relating to requirements to be met by filed documents), 138
15 (relating to statement of correction) and 8907 (relating to
16 execution of documents).

17 (j) Authorization by foreign limited liability companies.--
18 The plan of merger or consolidation shall be authorized, adopted
19 or approved by each foreign limited liability company that
20 desires to merge or consolidate in accordance with the laws of
21 the jurisdiction in which it is organized.

22 § 8958. Certificate of merger or consolidation.

23 (a) General rule.--Upon the adoption of the plan of merger
24 or consolidation by the limited liability companies desiring to
25 merge or consolidate, as provided in this subchapter, a
26 certificate of merger or a certificate of consolidation, as the
27 case may be, shall be executed by each company and shall,
28 subject to section 109 (relating to name of commercial
29 registered office provider in lieu of registered address), set
30 forth:

1 (1) The name and the location of the registered office,
2 including street and number, if any, of the domestic
3 surviving or new limited liability company or, in the case of
4 a foreign surviving or new limited liability company, the
5 name of the company and its jurisdiction of organization,
6 together with either of the following:

7 (i) If a qualified foreign limited liability
8 company, the address, including street and number, if
9 any, of its registered office in this Commonwealth.

10 (ii) If a nonqualified foreign limited liability
11 company, the address, including street and number, if
12 any, of its principal office under the laws of the
13 jurisdiction in which it is organized.

14 (2) The name and address, including street and number,
15 if any, of the registered office of each other domestic
16 limited liability company and qualified foreign limited
17 liability company that is a party to the merger or
18 consolidation.

19 (3) If the plan is to be effective on a specified date,
20 the hour, if any, and the month, day and year of the
21 effective date.

22 (4) The manner in which the plan was adopted by each
23 domestic limited liability company and, if one or more
24 foreign limited liability companies are parties to the merger
25 or consolidation, the fact that the plan was authorized,
26 adopted or approved, as the case may be, by each of the
27 foreign limited liability companies in accordance with the
28 laws of the jurisdiction in which it is organized.

29 (5) Except as provided in subsection (b), the plan of
30 merger or consolidation.

1 (b) Omission of certain provisions of plan of merger or
2 consolidation.--A certificate of merger or consolidation may
3 omit all provisions of the plan of merger or consolidation
4 except provisions, if any, that are intended to amend or
5 constitute the operative provisions of the certificate of
6 organization of a company as in effect subsequent to the
7 effective date of the plan, if the certificate of merger or
8 consolidation states that the full text of the plan is on file
9 at the principal place of business of the surviving or new
10 company and states the address thereof. A company that takes
11 advantage of this subsection shall furnish a copy of the full
12 text of the plan, on request and without cost, to any member of
13 any company that was a party to the plan and, unless all parties
14 to the plan had fewer than 30 members each, on request and at
15 cost to any other person.

16 (c) Filing of certificate of merger or consolidation.--The
17 certificate of merger or certificate of consolidation, as the
18 case may be, and the certificates or statement, if any, required
19 by section 139 (relating to tax clearance of certain fundamental
20 transactions) shall be filed in the department.

21 (d) Effective date of merger or consolidation.--Upon the
22 filing of the certificate of merger or the certificate of
23 consolidation in the Department of State or upon the effective
24 date specified in the plan of merger or consolidation, whichever
25 is later, the merger or consolidation shall be effective. The
26 merger or consolidation of one or more domestic limited
27 liability companies into a foreign limited liability company
28 shall be effective according to the provisions of law of the
29 jurisdiction in which the foreign limited liability company is
30 organized, but not until a certificate of merger or certificate

1 of consolidation has been adopted and filed, as provided in this
2 subchapter.

3 (e) Cross references.--See sections 134 (relating to
4 docketing statement), 135 (relating to requirements to be met by
5 filed documents) and 8907 (relating to execution of documents).
6 § 8959. Effect of merger or consolidation.

7 (a) Single surviving or new limited liability company.--Upon
8 the merger or consolidation becoming effective, the several
9 limited liability companies parties to the merger or
10 consolidation shall be a single company which, in the case of a
11 merger, shall be the company designated in the plan of merger as
12 the surviving company and, in the case of a consolidation, shall
13 be the new company provided for in the plan of consolidation.
14 The separate existence of all companies parties to the merger or
15 consolidation shall cease, except that of the surviving company,
16 in the case of a merger.

17 (b) Property rights.--All the property, real, personal and
18 mixed, of each of the companies parties to the merger or
19 consolidation and all debts due on whatever account to any of
20 them, as well as all other things and causes of action belonging
21 to any of them, shall be deemed to be vested in and shall belong
22 to the surviving or new company, as the case may be, without
23 further action, and the title to any real estate or any interest
24 therein vested in any of the companies shall not revert or be in
25 any way impaired by reason of the merger or consolidation. The
26 surviving or new company shall thenceforth be responsible for
27 all the liabilities of each of the companies so merged or
28 consolidated. Liens upon the property of the merging or
29 consolidating companies shall not be impaired by the merger or
30 consolidation, and any claim existing or action or proceeding

1 pending by or against any of the companies may be prosecuted to
2 judgment as if the merger or consolidation had not taken place
3 or the surviving or new company may be proceeded against or
4 substituted in its place.

5 (c) Taxes.--Any taxes, interest, penalties and public
6 accounts of the Commonwealth claimed against any of the merging
7 or consolidating companies that are settled, assessed or
8 determined prior to or after the merger or consolidation shall
9 be the liability of the surviving or new company and, together
10 with interest thereon, shall be a lien against the property,
11 both real and personal, of the surviving or new company.

12 (d) Certificate of organization.--In the case of a merger,
13 the certificate of organization of the surviving domestic
14 limited liability company, if any, shall be deemed to be amended
15 to the extent, if any, that changes in its certificate of
16 organization are stated in the plan of merger. In the case of a
17 consolidation into a domestic limited liability company, the
18 statements that are set forth in the plan of consolidation or
19 certificate of organization set forth therein shall be deemed to
20 be the certificate of organization of the new limited liability
21 company.

22 SUBCHAPTER H

23 DIVISION

24 Sec.

25 8961. Division authorized.

26 8962. Proposal and adoption of plan of division.

27 8963. Division without member approval.

28 8964. Certificate of division.

29 8965. Effect of division.

30 § 8961. Division authorized.

1 (a) Division of domestic company.--Any domestic limited
2 liability company may, in the manner provided in this
3 subchapter, be divided into two or more domestic limited
4 liability companies organized or to be organized under this
5 chapter, or into one or more domestic limited liability
6 companies and one or more foreign limited liability companies to
7 be organized under the laws of another jurisdiction or
8 jurisdictions, or into two or more foreign limited liability
9 companies, if the laws of the other jurisdictions authorize the
10 division.

11 (b) Division of foreign company.--Any foreign limited
12 liability company may, in the manner provided in this
13 subchapter, be divided into one or more domestic limited
14 liability companies to be organized under this chapter and one
15 or more foreign limited liability companies organized or to be
16 organized under the laws of another jurisdiction or
17 jurisdictions, or into two or more domestic limited liability
18 companies, if the foreign limited liability company is
19 authorized under the laws of the jurisdiction under which it is
20 incorporated to effect a division.

21 (c) Surviving and new companies.--The company effecting a
22 division, if it survives the division, is designated in this
23 subchapter as the surviving company. All companies originally
24 organized by a division are designated in this subchapter as new
25 companies. The surviving company, if any, and the new company or
26 companies are collectively designated in this subchapter as the
27 resulting companies.

28 § 8962. 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 reclassification of the membership interests
4 of the surviving company, if there be one, and, if any of
5 the membership interests of the dividing company are not
6 to be converted solely into membership interests or other
7 securities or obligations of one or more of the resulting
8 companies, the membership interests or other securities
9 or obligations of any other person or cash, property or
10 rights that the holders of such membership interests are
11 to receive in exchange for or upon conversion of such
12 membership interests, and the surrender of any
13 certificates evidencing them, which securities or
14 obligations, if any, of any other person or cash,
15 property or rights may be in addition to or in lieu of
16 membership interests or other securities or obligations
17 of one or more of the resulting companies.

18 (ii) The disposition of the membership interests and
19 other securities or obligations, if any, of the new
20 company or companies resulting from the division.

21 (2) A statement that the dividing company will or will
22 not survive the division.

23 (3) Any changes desired to be made in the certificate of
24 organization of the surviving company, if there be one,
25 including a restatement of the certificate.

26 (4) The certificates of organization required by
27 subsection (c).

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

29 (b) Reference to outside facts.--Any of the terms of the
30 plan may be made dependent upon facts ascertainable outside of

1 the plan if the manner in which the facts will operate upon the
2 terms of the plan is set forth in the plan. Such facts may
3 include, without limitation, actions or events within the
4 control of or determinations made by the dividing limited
5 liability company or a representative of the dividing limited
6 liability company.

7 (c) Certificates of organization of new companies.--There
8 shall be included in or annexed to the plan of division:

9 (1) Certificates of organization, which shall contain
10 all of the statements required by this chapter to be set
11 forth in a restated certificate, for each of the new domestic
12 limited liability companies, if any, resulting from the
13 division.

14 (2) Certificates of organization or other organizational
15 documents for each of the new foreign limited liability
16 companies, if any, resulting from the division.

17 (d) Proposal and adoption.--Except as otherwise provided in
18 section 8963 (relating to division without member approval), the
19 plan of division shall be proposed and adopted and may be
20 amended after its adoption and terminated by a domestic limited
21 liability company in the manner provided for the proposal,
22 adoption, amendment and termination of a plan of merger in
23 Subchapter G (relating to mergers and consolidations) or, if the
24 dividing company is a foreign limited liability company, in
25 accordance with the laws of the jurisdiction in which it is
26 organized.

27 § 8963. Division without member approval.

28 Unless otherwise required by a written provision of the
29 operating agreement, a plan of division that does not alter the
30 state of organization of a limited liability company that is

1 managed by one or more managers nor amend in any respect the
2 provisions of its certificate of organization or operating
3 agreement (except amendments which may be made without action by
4 the members) shall not require the approval of the members of
5 the company if:

6 (1) the dividing company has only one class of
7 membership interests outstanding and the membership interests
8 and other securities, if any, of each company resulting from
9 the plan are distributed pro rata to the members of the
10 dividing company;

11 (2) the dividing company survives the division and all
12 the membership interests and other securities and
13 obligations, if any, of all new companies resulting from the
14 plan are owned solely by the surviving company; or

15 (3) the transfers of assets effected by the division, if
16 effected by means of a sale, lease, exchange or other
17 disposition, would not require the approval of the members.

18 § 8964. Certificate of division.

19 (a) Contents.--Upon the adoption of a plan of division by
20 the limited liability company desiring to divide, as provided in
21 this subchapter, a certificate of division shall be executed by
22 the company and shall, subject to section 109 (relating to name
23 of commercial registered office provider in lieu of registered
24 address), set forth:

25 (1) The name and the location of the registered office,
26 including street and number, if any, of the dividing domestic
27 limited liability company or, in the case of a dividing
28 foreign limited liability company, the name of the company
29 and the jurisdiction in which it is organized, together with
30 either:

1 (i) If a qualified foreign limited liability
2 company, the address, including street and number, if
3 any, of its registered office in this Commonwealth.

4 (ii) If a nonqualified foreign limited liability
5 company, the address, including street and number, if
6 any, of its principal office under the laws of that
7 jurisdiction.

8 (2) The statute under which the dividing company was
9 organized and the date of organization.

10 (3) A statement that the dividing company will or will
11 not survive the division.

12 (4) The name and address, including street and number,
13 if any, of the registered office of each new domestic limited
14 liability company or qualified foreign limited liability
15 company resulting from the division.

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

19 (6) The manner in which the plan was adopted by the
20 company.

21 (7) The plan of division.

22 (b) Filing.--The certificate of division and the
23 certificates or statement, if any, required by section 139
24 (relating to tax clearance of certain fundamental transactions)
25 shall be filed in the Department of State.

26 (c) Effective date of division.--Upon the filing of the
27 certificate of division in the Department of State or upon the
28 effective date specified in the plan of division, whichever is
29 later, the division shall become effective. The division of a
30 domestic limited liability company into one or more foreign

1 limited liability companies or the division of a foreign limited
2 liability company shall be effective according to the laws of
3 the jurisdictions where the foreign companies are or are to be
4 organized but not until a certificate of division has been
5 adopted and filed as provided in this subchapter.

6 (d) Cross references.--See sections 134 (relating to
7 docketing statement), 135 (relating to requirements to be met by
8 filed documents) and 8907 (relating to execution of documents).
9 § 8965. Effect of division.

10 (a) Multiple resulting companies.--Upon the division
11 becoming effective, the dividing company shall be subdivided
12 into the distinct and independent resulting companies named in
13 the plan of division, and, if the dividing company is not to
14 survive the division, the existence of the dividing company
15 shall cease. The resulting companies, if they are domestic
16 limited liability companies, shall not thereby acquire authority
17 to engage in any business or exercise any right that a company
18 may not be organized under this chapter to engage in or
19 exercise. Any resulting foreign limited liability company that
20 is stated in the certificate of division to be a qualified
21 foreign limited liability company shall be a qualified foreign
22 limited liability company under Subchapter J (relating to
23 foreign companies), and the certificate of division shall be
24 deemed to be the application for registration of a foreign
25 limited liability company of the limited liability company.

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

28 (1) (i) All the property, real, personal and mixed, of
29 the dividing company and all debts due on whatever
30 account to it, including subscriptions for membership

1 interests and other causes of action belonging to it,
2 shall, except as otherwise provided in paragraph (2), to
3 the extent allocations of assets are contemplated by the
4 plan of division, be deemed without further action to be
5 allocated to and vested in the resulting companies on
6 such a manner and basis and with such effect as is
7 specified in the plan, or per capita among the resulting
8 companies as tenants in common if no specification is
9 made in the plan, and the title to any real estate or
10 interest therein vested in any of the companies shall not
11 revert or be in any way impaired by reason of the
12 division.

13 (ii) Upon the division becoming effective, the
14 resulting companies shall each thenceforth be responsible
15 as separate and distinct companies only for such
16 liabilities as each company may undertake or incur in its
17 own name but shall be liable for the liabilities of the
18 dividing company in the manner and on the basis provided
19 in subparagraphs (iv) and (v).

20 (iii) Liens upon the property of the dividing
21 company shall not be impaired by the division.

22 (iv) To the extent allocations of liabilities are
23 contemplated by the plan of division, the liabilities of
24 the dividing company shall be deemed without further
25 action to be allocated to and become the liabilities of
26 the resulting companies on such a manner and basis and
27 with such effect as is specified in the plan; and one or
28 more, but less than all, of the resulting companies shall
29 be free of the liabilities of the dividing company to the
30 extent, if any, specified in the plan if in either case:

1 (A) no fraud on members or violation of law
2 shall be effected thereby; and

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

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

23 (vi) The conditions in subparagraph (iv) for freeing
24 one or more of the resulting companies from the
25 liabilities of the dividing company and for allocating
26 some or all of the liabilities of the dividing company
27 shall be conclusively deemed to have been satisfied if
28 the plan of division has been approved by the
29 Pennsylvania Public Utility Commission in a final order
30 issued after August 21, 2001, that has become not subject

1 to further appeal.

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

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

15 (B) A duly executed duplicate original copy of
16 the certificate of division.

17 (C) A copy of the certificate of division
18 certified by the Department of State.

19 (D) A declaration of acquisition setting forth
20 the value of real estate holdings in such county of
21 the company as an acquired company.

22 (ii) The provisions of 75 Pa.C.S. § 1114 (relating
23 to transfer of vehicle by operation of law) shall not be
24 applicable to an allocation of ownership of any motor
25 vehicle, trailer or semitrailer to a new company under
26 this section or under a similar law of any other
27 jurisdiction but any such allocation shall be effective
28 only upon compliance with the requirements of 75 Pa.C.S.
29 § 1116 (relating to issuance of new certificate following
30 transfer).

1 (3) It shall not be necessary for a plan of division to
2 list each individual asset or liability of the dividing
3 company to be allocated to a new company so long as those
4 assets and liabilities are described in a reasonable and
5 customary manner.

6 (4) Each new company shall hold any assets and
7 liabilities allocated to it as the successor to the dividing
8 company, and those assets and liabilities shall not be deemed
9 to have been assigned to the new company in any manner,
10 whether directly or indirectly or by operation of law.

11 (c) Taxes.--Any taxes, interest, penalties and public
12 accounts of the Commonwealth claimed against the dividing
13 company that are settled, assessed or determined prior to or
14 after the division shall be the liability of any of the
15 resulting companies and, together with interest thereon, shall
16 be a lien against the franchises and property, both real and
17 personal, of all the companies. Upon the application of the
18 dividing company, the Department of Revenue, with the
19 concurrence of the Office of Employment Security of the
20 Department of Labor and Industry, shall release one or more, but
21 less than all, of the resulting companies from liability and
22 liens for all taxes, interest, penalties and public accounts of
23 the dividing company due the Commonwealth for periods prior to
24 the effective date of the division if those departments are
25 satisfied that the public revenues will be adequately secured.

26 (d) Certificate of organization of surviving company.--The
27 certificate of organization of the surviving company, if there
28 be one, shall be deemed to be amended to the extent, if any,
29 that changes in its certificate are stated in the plan of
30 division.

1 (e) Certificates of organization of new companies.--The
2 statements that are set forth in the plan of division with
3 respect to each new domestic limited liability company and that
4 are required or permitted to be set forth in a restated
5 certificate of organization of companies organized under this
6 chapter or the certificate of organization of each new company
7 set forth therein shall be deemed to be the certificate of
8 organization of each new company.

9 (f) Managers.--Unless otherwise provided in the plan, the
10 managers, if any, of the dividing limited liability company
11 shall be the initial managers of each of the resulting
12 companies.

13 (g) Disposition of membership interests.--Unless otherwise
14 provided in the plan, the membership interests and other
15 securities or obligations, if any, of each new company resulting
16 from the division shall be distributable to:

17 (1) the surviving company if the dividing company
18 survives the division; or

19 (2) the members of the dividing company in the
20 proportions in which the members share in distributions, in
21 any other case.

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

24 (1) The effect of a division of a domestic limited
25 liability company shall be governed by the laws of this
26 Commonwealth and any other jurisdiction under the laws of
27 which any of the resulting companies is organized.

28 (2) The effect of a division on the assets and
29 liabilities of the dividing company shall be governed solely
30 by the laws of this Commonwealth and any other jurisdiction

1 under the laws of which any of the resulting companies is
2 organized.

3 (3) The validity of any allocation of assets or
4 liabilities by a plan of division of a domestic limited
5 liability company, regardless of whether or not any of the
6 new companies is a foreign limited liability company, shall
7 be governed solely by the laws of this Commonwealth.

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

12 § 8978. Dissolution by domestication.

13 Whenever a domestic limited liability company has
14 domesticated itself under the laws of another jurisdiction by
15 action similar to that provided by section 8982 (relating to
16 domestication) and has authorized that action by the vote
17 required by this subchapter for the approval of a proposal that
18 the company dissolve voluntarily, the company may surrender its
19 certificate of organization under the laws of this Commonwealth
20 by filing in the Department of State a certificate of
21 dissolution under section 8975 (relating to certificate of
22 dissolution). In lieu of the statements required by section
23 8975(a)(2) through (4), the certificate of dissolution shall set
24 forth a statement that the company has domesticated itself under
25 the laws of another jurisdiction. If the company, as
26 domesticated in the other jurisdiction, registers to do business
27 in this Commonwealth either prior to or simultaneously with the
28 filing of the certificate of dissolution under this section, the
29 company shall not be required to file with the certificate of
30 dissolution the tax clearance certificates that would otherwise

1 be required by section 139 (relating to tax clearance of certain
2 fundamental transactions).

3 SUBCHAPTER J

4 FOREIGN COMPANIES

5 Sec.

6 8981. Foreign limited liability companies.

7 8982. Domestication.

8 § 8981. Foreign limited liability companies.

9 (a) General rule.--A foreign limited liability company shall
10 be subject to Subchapter K of Chapter 85 (relating to foreign
11 limited partnerships) as if it were a foreign limited
12 partnership, except that:

13 (1) Section 8582(a)(5) and (6) (relating to
14 registration) shall not be applicable to the application for
15 registration of a foreign limited liability company.

16 (2) If the foreign limited liability company is to be a
17 qualified foreign restricted professional company, its
18 application for registration shall so state and shall also
19 contain a brief description of the professional service or
20 services to be rendered by the company.

21 (3) A qualified foreign limited liability company shall
22 enjoy the same rights and privileges as a domestic limited
23 liability company, but no more, and, except as otherwise
24 provided by law, shall be subject to the same liabilities,
25 restrictions, duties and penalties now in force or hereafter
26 imposed upon domestic limited liability companies to the same
27 extent as if it had been organized under this chapter.

28 (b) Provision applicable to all foreign limited liability
29 companies.--Section 8926 (relating to certain specifically
30 authorized debt terms) shall be applicable to any obligation, as

1 defined in section 1510 (relating to certain specifically
2 authorized debt terms), of a foreign limited liability company
3 executed or effected in this Commonwealth or affecting real
4 property situated in this Commonwealth.

5 § 8982. Domestication.

6 (a) General rule.--Any qualified foreign limited liability
7 company may become a domestic limited liability company by
8 filing in the Department of State a certificate of
9 domestication. The certificate of domestication, upon being
10 filed in the department, shall constitute the certificate of
11 organization of the domesticated company, and it shall
12 thereafter continue as a limited liability company which shall
13 be a domestic limited liability company subject to this chapter.

14 (b) Certificate of domestication.--The certificate of
15 domestication shall be executed by the company and shall set
16 forth in the English language:

17 (1) The name of the company. If the name is in a foreign
18 language, it shall be set forth in Roman letters or
19 characters or Arabic or Roman numerals. If the name is one
20 that is rendered unavailable for use by any provision of
21 section 8905 (relating to name), the company shall adopt, in
22 accordance with any procedures for changing the name of the
23 company that are applicable prior to the domestication of the
24 company, and shall set forth in the certificate of
25 domestication an available name.

26 (2) Subject to section 109 (relating to name of
27 commercial registered office provider in lieu of registered
28 address), the address, including street and number, if any,
29 of its registered office in this Commonwealth.

30 (3) A statement that upon domestication the company will

1 be subject to the domestic limited liability company
2 provisions of the Limited Liability Company Law of 1994 and,
3 if desired, a brief statement of the purpose or purposes for
4 which it is to be domesticated which shall be a purpose or
5 purposes for which a domestic limited liability company may
6 be organized under this chapter and which may consist of or
7 include a statement that the company shall have unlimited
8 power to engage in and to do any lawful act concerning any or
9 all lawful business for which companies may be organized
10 under the Limited Liability Company Law of 1994.

11 (4) Any desired provisions relating to the manner and
12 basis of reclassifying the membership interests of the
13 company.

14 (5) A statement that the filing of the certificate of
15 domestication and, if desired, the renunciation of the
16 original certificate of organization of the company has been
17 authorized, unless its certificate of organization or other
18 organic documents require a greater vote, by a majority of
19 the votes cast by all members entitled to vote thereon and,
20 if any class of members is entitled to vote thereon as a
21 class, a majority of the votes cast in each class vote.

22 (6) Any other provisions authorized or required by this
23 chapter to be set forth in an original certificate of
24 organization.

25 See sections 134 (relating to docketing statement), 135
26 (relating to requirements to be met by filed documents) and 8907
27 (relating to execution of documents).

28 (c) Effect of domestication.--

29 (1) As a domestic limited liability company, the
30 domesticated company shall no longer be a foreign limited

1 liability company for the purposes of this chapter and shall
2 instead be a domestic limited liability company with all the
3 powers and privileges and all the duties and limitations
4 granted and imposed upon domestic limited liability
5 companies. In all other respects, the domesticated limited
6 liability company shall be deemed to be the same limited
7 liability company as it was prior to the domestication
8 without any change in or effect on its existence. Without
9 limiting the generality of the previous sentence, the
10 domestication shall not be deemed to have dissolved the
11 company or to have affected in any way:

12 (i) the right and title of the company in and to its
13 assets, property, franchises, estates and choses in
14 action;

15 (ii) the liability of the company for its debts,
16 obligations, penalties and public accounts due the
17 Commonwealth;

18 (iii) any liens or other encumbrances on the
19 property or assets of the company; or

20 (iv) any contract, license or other agreement to
21 which the company is a party or under which it has any
22 rights or obligations.

23 (2) The membership interests in the domesticated company
24 shall be unaffected by the domestication except to the
25 extent, if any, reclassified in the certificate of
26 domestication.]

27 Section 56. The definition of "transfer" in section 9112 of
28 Title 15 is amended to read:

29 § 9112. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 * * *

4 ["Transfer." Includes:

5 (1) an assignment;

6 (2) a conveyance;

7 (3) a sale;

8 (4) a lease;

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

11 (6) a gift; and

12 (7) a transfer by operation of law.]

13 Section 57. Sections 9302(3), 9502(a) introductory
14 paragraph, 9503(b) and 9507(a) of Title 15 are amended to read:
15 § 9302. Application of chapter.

16 This chapter shall apply to and the word "association" in
17 this chapter shall mean a professional association organized
18 under the act of August 7, 1961 (P.L.941, No.416), known as the
19 Professional Association Act, which has not:

20 * * *

21 (3) [Elected to become a limited liability company in
22 the manner provided by section 8908 (relating to election of
23 professional association to become limited liability
24 company).] Converted to a limited liability company under
25 Subchapter E of Chapter 3 (relating to conversion).

26 * * *

27 § 9502. Creation, status and termination of business trusts.

28 (a) Creation.--[A business trust may be created in real or
29 personal property, or both, with power in] Except as provided in
30 the instrument, the trustee has the power:

1 * * *

2 § 9503. Documentation of trust.

3 * * *

4 (b) Definition of "instrument".--The term "instrument," as
5 used in this chapter, shall mean the original deed of trust or
6 other written instrument, all amendments thereof and any other
7 statements or certificates permitted or required to be filed in
8 the department by sections 108 (relating to change in location
9 or status of registered office provided by agent) and 138
10 (relating to statement of correction), Chapter 3 (relating to
11 entity transactions) or this chapter. If an amendment of the
12 instrument or [articles of merger made in the manner permitted
13 by section 1921(c) (relating to business trusts and other
14 associations) or a certificate of merger made in the manner
15 permitted by section 8545(c) (relating to business trusts and
16 other associations)] a statement filed under Chapter 3 restates
17 an instrument in its entirety, thenceforth the "instrument"
18 shall not include any prior documents, and any certificate
19 issued by the department with respect thereto shall so state.

20 * * *

21 § 9507. Foreign business trusts.

22 [(a) General rule.--A business trust organized under any
23 laws other than those of this Commonwealth shall be subject to
24 Subchapters B (relating to qualification) and C (relating to
25 powers, duties and liabilities) of Chapter 41, as if it were a
26 foreign business corporation, except that a qualified foreign
27 business trust shall enjoy the same rights and privileges as a
28 domestic business trust, but no more, and, except as otherwise
29 provided by law, shall be subject to the same liabilities,
30 restrictions, duties and penalties now in force or hereafter

1 imposed upon domestic business trusts, to the same extent as if
2 it were a domestic business trust.]

3 * * *

4 Section 58. Section 302 of Title 54 is amended to read:

5 § 302. Definitions.

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

9 "Business." Any commercial or professional activity.

10 "Entity." Any individual or any corporation, association,
11 partnership, joint-stock company, business trust, syndicate,
12 joint adventureship or other combination or group of persons,
13 regardless of whether it is organized or formed under the laws
14 of this Commonwealth or any other jurisdiction.

15 "Fictitious name." Any assumed or fictitious name, style or
16 designation other than the proper name of the entity using such
17 name. The term includes a name assumed by a general partnership,
18 syndicate, joint adventureship or similar combination or group
19 of persons.

20 "Proper name." When used with respect to an association of a
21 type listed in the following paragraphs, the term means the name
22 set forth in:

23 (1) the [articles of incorporation, for a corporation;]
24 public organic record, for a domestic filing association;

25 (2) the statement of registration, for a limited
26 liability partnership;

27 [(3) the certificate of limited partnership, for a
28 limited partnership;]

29 (4) the statement of election, for an electing
30 partnership;

1 [(5) the certificate of organization, for a limited
2 liability company;

3 (6) the articles of association, for a professional
4 association;

5 (7) the deed of trust or other trust instrument, if any,
6 that has been filed in the Department of State for a business
7 trust; or

8 (8) a publicly filed document in another jurisdiction
9 which is of a type listed in paragraphs (1) through (7).]

10 (9) the statement of registration of a foreign
11 registered association under 15 Pa.C.S. § 412(a)(1)(i)
12 (relating to foreign registration statement), or if that name
13 does not comply with 15 Pa.C.S. § 202 (relating to
14 requirements for names generally), the name set forth in the
15 statement under 15 Pa.C.S. § 412 (a)(1)(ii).

16 (b) Other defined terms.--The definitions in 15 Pa.C.S. §
17 102 (relating to definitions) apply to this title except to the
18 extent they are inconsistent with the provisions of this title.

19 Section 59. Section 303 of Title 54 is amended by adding a
20 subsection to read:

21 § 303. Scope of chapter.

22 * * *

23 (d) Effect of registration.--The registration of a name
24 under this chapter does not render the name unavailable for use
25 by another entity.

26 Section 60. Sections 311(e)(1) and (4), 501(a)(3), (4), (5),
27 (6) and (8) and (b), 502(a)(2) introductory paragraph and 503(b)
28 (1)(ii) and (c) of Title 54 are amended to read:

29 § 311. Registration.

30 * * *

1 (e) Duplicate use of names.--The fictitious name shall be
2 distinguishable upon the records of the department from:

3 (1) The name of any domestic [corporation, or any]
4 filing entity, domestic limited liability limited
5 partnership, domestic electing partnership, registered
6 foreign [corporation authorized to do business in this
7 Commonwealth,] association or the name of any corporation or
8 other association registered at any time under Chapter 5
9 (relating to corporate and other association names) unless
10 such name is available or is made available for use under the
11 provisions or procedures of 15 Pa.C.S. § [5303(b)(1)(i) or
12 (ii) (relating to duplicate use of names) or the equivalent.]
13 202(b)(1) (relating to requirements for names generally).

14 * * *

15 (4) A name the exclusive right to which is at the time
16 reserved or registered by any other person [whatsoever in the
17 manner provided by] under 15 Pa.C.S. § 208 (relating to
18 reservation of name) or 209 (relating to registration of name
19 of nonregistered foreign association) or another statute.

20 * * *

21 § 501. Register established.

22 (a) General rule.--A register is established by this chapter
23 which shall consist of such of the following names as are not
24 deleted therefrom by operation of section 504 (relating to
25 effect of failure to make filings) or 506 (relating to voluntary
26 termination of registration by corporations and other
27 associations):

28 * * *

29 (3) In the case of a domestic or [qualified] registered
30 foreign corporation, a name rendered unavailable for

1 corporate use by other corporations by reason of any filing
2 in the department by such domestic or [qualified] registered
3 foreign corporation.

4 (4) A name registered under 15 Pa.C.S. § [4131] 209
5 (relating to registration of name of nonregistered foreign
6 association) or any similar provision of law.

7 (5) In the case of a business trust which exists subject
8 to 15 Pa.C.S. Ch. 95 (relating to business trusts), the name
9 of the trust as set forth in the[:

10 (i)] instrument filed in the department under 15
11 Pa.C.S. § 9503 (relating to documentation of trust)[; or

12 (ii) application for registration filed under 15
13 Pa.C.S. § 9507 (relating to foreign business trusts)].

14 (6) In the case of a limited partnership or limited
15 liability company subject to 15 Pa.C.S. Ch. 85 (relating to
16 limited partnerships) or 89 (relating to limited liability
17 companies), the name of the partnership or company as set
18 forth in the certificate of limited partnership, certificate
19 of organization or [application for] statement of
20 registration as a registered foreign [limited partnership or
21 foreign limited liability company, as the case may be]
22 association.

23 (8) In the case of a registered limited liability
24 partnership subject to 15 Pa.C.S. Ch. 82 (relating to
25 registered limited liability partnerships) that is not also a
26 limited partnership, the name of the partnership as set forth
27 in the statement of registration [or application for
28 registration] as a registered foreign [registered limited
29 liability partnership] association.

30 (b) Subsequent availability of certain names.--Whenever, by

1 reason of change in name, withdrawal or dissolution of a
2 domestic or [qualified] registered foreign [corporation]
3 association, failure to renew a registration of its name by a
4 [nonqualified] nonregistered foreign [corporation] association,
5 or for any other cause, its name is no longer rendered
6 unavailable by the express provisions of Title 15 (relating to
7 corporations and unincorporated associations), such name shall
8 no longer be deemed to be registered under subsection (a)(3) or
9 (4) on the register established by this chapter.

10 § 502. Certain additions to register.

11 (a) Corporation names.--

12 * * *

13 (2) Any person who is not eligible to make a filing
14 under 15 Pa.C.S. § [4131 (relating to registration of name)
15 or 6131] 209 (relating to registration of name of
16 nonregistered foreign association) may register a corporation
17 name with the department by filing an application for
18 registration of name, executed by the person, which shall set
19 forth:

20 * * *

21 § 503. Decennial filings required.

22 * * *

23 (b) Exceptions.--Subsection (a) shall not apply to any of
24 the following:

25 (1) A corporation or other association that during the
26 ten years ending on December 31 of the year in which a filing
27 would otherwise be required under subsection (a) has made any
28 filing in the department pursuant to a provision of this
29 title or 15 Pa.C.S. (relating to corporations and
30 unincorporated associations) other than:

1 * * *

2 (ii) a filing under[:

3 (A) 15 Pa.C.S. § 1305 (relating to reservation
4 of corporate name);

5 (B) 15 Pa.C.S. § 5305 (relating to reservation
6 of corporate name);

7 (C) 15 Pa.C.S. § 8203(b) (relating to name);

8 (D) 15 Pa.C.S. § 8505(b) (relating to name); or

9 (E)] 15 Pa.C.S. § [8905(b)] 208 (relating to
10 reservation of name) or 209 (relating to registration
11 of name of nonregistered foreign association).

12 * * *

13 [(c) Exemptions.--An association shall be exempt from the
14 2001 decennial filing if the association made a filing:

15 (1) After December 31, 1989, and before January 1, 1992,
16 pursuant to a provision of this title or 15 Pa.C.S. other
17 than a filing under:

18 (i) 15 Pa.C.S. § 1305;

19 (ii) 15 Pa.C.S. § 5305;

20 (iii) 15 Pa.C.S. § 8203(b);

21 (iv) 15 Pa.C.S. § 8505(b); or

22 (v) 15 Pa.C.S. § 8905(b).

23 (2) Under this section during the year 2000.]

24 * * *

25 Section 61. This act shall take effect in 60 days.