

**CHAPTER 9****DOMESTICATION AND CONVERSION****SUBCHAPTER 1****DOMESTICATION****§921. Domestication**

**1. Foreign business corporation may become domestic business corporation.** A foreign business corporation may become a domestic business corporation only if the domestication is permitted by the organic law of the foreign corporation. The laws of this State govern the effect of domesticating in this State pursuant to this subchapter.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Domestic business corporation may become foreign business corporation.** A domestic business corporation may become a foreign business corporation only if the domestication is permitted by the laws of the foreign jurisdiction. Regardless of whether the laws of the foreign jurisdiction require the adoption of a plan of domestication, the domestication must be approved by the adoption by the domestic business corporation of a plan of domestication in the manner provided in this subchapter. The laws of the foreign jurisdiction govern the effect of domesticating in that jurisdiction.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**3. Plan of domestication.** A domestic business corporation's plan of domestication in accordance with subsection 2 must include:

A. The name of the jurisdiction in which the corporation is to be domesticated; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. The terms and conditions of the domestication; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. The manner and basis of reclassifying the shares of the corporation following its domestication into shares or other securities, obligations, rights to acquire shares or other securities, cash, other property or any combination thereof; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

D. Any desired amendments to the articles of incorporation of the corporation following its domestication. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**4. Amend plan.** A domestic business corporation's plan of domestication submitted in accordance with subsection 2 may also include a provision that the plan may be amended prior to the filing of the document required by the laws of this State or the other jurisdiction to consummate the domestication, except that after approval of the plan by the shareholders the plan may not be amended to change:

A. The amount or kind of shares or other securities, obligations, rights to acquire shares or other securities, cash or other property to be received by the shareholders under the plan; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. The articles of incorporation of the corporation as they will be in effect immediately following the domestication, except for changes permitted by section 1005 or by comparable provisions of the laws of the other jurisdiction; or [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. Any of the other terms or conditions of the plan if the change would adversely affect any of the shareholders in any material respect. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**5. Transitional rule.** If any debt security, note or similar evidence of indebtedness for money borrowed, whether secured or unsecured, or a contract of any kind issued, incurred or signed by a domestic business corporation before July 1, 2003 contains a provision applying to a merger of the corporation and the document does not refer to a domestication of the corporation, the provision is deemed to apply to a domestication of the corporation until the provision is amended.

[PL 2011, c. 274, §37 (AMD).]

**6. Extrinsic facts.** Terms of a plan of domestication may be made dependent upon facts objectively ascertainable outside the plan in accordance with section 121, subsection 10.

[PL 2003, c. 344, Pt. B, §75 (NEW).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2003, c. 344, §§B74,75 (AMD). PL 2011, c. 274, §37 (AMD).

#### §922. Action on plan of domestication

In the case of a domestication of a domestic business corporation, in this section referred to as the "corporation," in a foreign jurisdiction: [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**1. Plan adopted by directors.** The plan of domestication must be adopted by the corporation's board of directors;

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Shareholders' approval.** After adopting the plan of domestication, the corporation's board of directors shall submit the plan to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the plan, unless:

A. The board of directors makes a determination that because of conflicts of interest or other special circumstances the board of directors should not make such a recommendation; or [PL 2011, c. 274, §38 (NEW).]

B. Section 827 applies. [PL 2011, c. 274, §38 (NEW).]

If paragraph A or B applies, the board of directors shall transmit to the shareholders the basis for so proceeding;

[PL 2011, c. 274, §38 (RPR).]

**3. Conditional submission.** The corporation's board of directors may condition its submission of the plan of domestication to the shareholders on any basis;

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**4. Notice of meeting.** If the approval of the shareholders of the plan of domestication under subsection 2 is to be given at a meeting, the corporation shall notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the plan of domestication is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the plan and must contain or be accompanied by a copy or summary of the plan. The notice must include or be accompanied by a copy of the corporation's articles of incorporation as they will be in effect immediately after the domestication;

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**5. Majority approval.** Unless the corporation's articles of incorporation or its board of directors acting pursuant to subsection 3 requires a greater vote, approval of the plan of domestication requires the approval of the shareholders and, if any class or series of shares is entitled to vote as a separate group on the plan, the approval of each such separate voting group by a majority of all the votes entitled to be cast on the plan by that voting group. The articles of incorporation may provide that the plan may be approved by a lesser vote of each voting group entitled to vote on the plan but in no case less than a majority of the votes cast by that voting group at a meeting at which there exists, for each such voting group, a quorum consisting of at least a majority of the votes entitled to be cast on the plan by each voting group entitled to vote on the plan;

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**6. Voting groups.** Subject to subsection 6-A, separate voting by voting groups is required by each class or series of shares that:

A. Is to be reclassified under the plan of domestication into other securities, obligations, rights to acquire shares or other securities, cash, other property or any combination thereof; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. Is entitled to vote as a separate group on a provision of the plan of domestication that constitutes a proposed amendment to the corporation's articles of incorporation following its domestication that requires action by separate voting groups under section 1004; or [PL 2011, c. 274, §39 (AMD).]

C. Is entitled under the corporation's articles of incorporation to vote as a voting group to approve an amendment of the articles; [PL 2011, c. 274, §39 (AMD).]

[PL 2011, c. 274, §39 (AMD).]

**6-A. Separate voting.** The corporation's articles of incorporation may expressly limit or eliminate the separate voting rights provided in subsection 6, paragraph A;

[PL 2011, c. 274, §40 (NEW).]

**7. Transitional rule.** If any provision of the corporation's articles of incorporation or bylaws or of an agreement to which any of the directors or shareholders are parties, adopted or entered into before July 1, 2003, applies to a merger of the corporation and that document does not refer to a domestication of the corporation, the provision is deemed to apply to a domestication of the corporation until the provision is amended; and

[PL 2011, c. 274, §41 (AMD).]

**8. Consent of shareholders.** A plan of domestication may be approved for a participating corporation by written consent of shareholders entitled to vote, as provided in section 704. If the plan of domestication is approved by written consent of all shareholders, whether or not entitled to vote, a resolution of the board of directors of the participating corporation approving, proposing, submitting, recommending or otherwise respecting the plan of domestication is not necessary and shareholders of the participating corporation are not entitled to receive notice of or to dissent from the plan of domestication.

[PL 2003, c. 344, Pt. B, §77 (NEW).]

## SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2003, c. 344, §§B76,77 (AMD). PL 2011, c. 274, §§38-41 (AMD).

## §923. Articles of domestication

**1. Articles of domestication.** After the domestication of a foreign business corporation, referred to in this section as the "corporation," has been authorized as required by the laws of the foreign

jurisdiction, articles of domestication must be executed by an officer or other duly authorized representative of the corporation. The articles must set forth:

A. The name of the corporation immediately before the filing of the articles of domestication and, if that name is unavailable for use in this State or the corporation desires to change its name in connection with the domestication, a name that satisfies the requirements of section 401; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. The jurisdiction of incorporation of the corporation immediately before the filing of the articles of domestication and the date the corporation was incorporated in that jurisdiction; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. A statement that the domestication of the corporation in this State was duly authorized as required by the laws of the jurisdiction in which the corporation was incorporated immediately before its domestication in this State. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Provisions of articles of domestication.** The articles of domestication of a corporation must either contain all the provisions that section 202, subsection 1 requires to be set forth in articles of incorporation with any other desired provisions that section 202, subsection 2 permits to be included in articles of incorporation or have attached articles of incorporation. In either case, provisions that would not be required by chapter 10 to be included in restated articles of incorporation may be omitted. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**3. Delivery to Secretary of State.** The articles of domestication of a corporation must be delivered to the Secretary of State for filing and take effect at the effective time provided in section 125. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**4. Certificate of authority.** If the corporation is authorized to transact business in this State under chapter 15, its certificate of authority is cancelled automatically on the effective date of its domestication.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

## SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF).

### §924. Surrender of charter upon domestication

**1. Articles of charter surrender.** Whenever a domestic business corporation, referred to in this section as the "corporation," has adopted and approved, in the manner required by this subchapter, a plan of domestication providing for the corporation to be domesticated in a foreign jurisdiction, articles of charter surrender must be executed on behalf of the corporation by any officer or other duly authorized representative. The articles of charter surrender must set forth:

A. The name of the corporation; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. A statement that the articles of charter surrender are being filed in connection with the domestication of the corporation in a foreign jurisdiction; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. A statement that the domestication was duly approved by the shareholders and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this Act and the corporation's articles of incorporation; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

D. The corporation's new jurisdiction of incorporation. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]  
[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Filing of articles of charter surrender.** The articles of charter surrender must be delivered by the corporation to the Secretary of State for filing. The articles of charter surrender take effect on the effective time provided in section 125.  
[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF).

#### §925. Effect of domestication

**1. Domestication of foreign business corporation.** When a domestication in this State of a foreign business corporation, referred to in this subsection as the "corporation," becomes effective:

A. The title to all real and personal property, both tangible and intangible, of the corporation remains in the corporation without reversion or impairment; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. The liabilities of the corporation remain the liabilities of the corporation; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. An action or proceeding pending against the corporation continues against the corporation as if the domestication had not occurred; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

D. The articles of domestication, or the articles of incorporation attached to the articles of domestication, constitute the articles of incorporation of the corporation; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

E. The shares of the corporation are reclassified into shares, other securities, obligations, rights to acquire shares or other securities or into cash or other property in accordance with the terms of the domestication as approved under the laws of the foreign jurisdiction, and the shareholders are entitled only to the rights provided by those terms and under those laws; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

F. The corporation is deemed to:

(1) Be incorporated under the laws of this State for all purposes;

(2) Be the same corporation without interruption as the corporation that existed under the laws of the foreign jurisdiction; and

(3) Have been incorporated on the date it was originally incorporated in the foreign jurisdiction. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Domestication of domestic business corporation.** When a domestication of a domestic business corporation in a foreign jurisdiction becomes effective, that foreign business corporation is deemed to:

A. Appoint the Secretary of State as its agent for service of process in a proceeding to enforce the rights of shareholders who exercise appraisal rights in connection with the domestication and that foreign business corporation shall provide a mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. Agree to promptly pay the amount, if any, to which the shareholders are entitled under chapter 13. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]  
[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**3. Owner liability.** The owner liability of a shareholder in a foreign business corporation that is domesticated in this State, referred to in this subsection as the "corporation," is as provided in this subsection.

A. The domestication does not discharge any owner liability under the laws of the foreign jurisdiction to the extent any owner liability arose before the effective time of the articles of domestication. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. The shareholder does not have owner liability under the laws of the foreign jurisdiction for any debt, obligation or liability of the corporation that arises after the effective time of the articles of domestication. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. The provisions of the laws of the foreign jurisdiction continue to apply to the collection or discharge of any owner liability preserved by paragraph A as if the domestication had not occurred and the corporation were still incorporated under the laws of the foreign jurisdiction. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

D. The shareholder has whatever rights of contribution from other shareholders that are provided by the laws of the foreign jurisdiction with respect to any owner liability preserved by paragraph A as if the domestication had not occurred and the corporation were still incorporated under the laws of that jurisdiction. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]  
[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF).

#### §926. Abandonment of domestication

**1. Abandonment of domestication by domestic business corporation.** Unless otherwise provided in a plan of domestication of a domestic business corporation, after the plan has been adopted and approved as required by this subchapter and at any time before the domestication has become effective, it may be abandoned by the corporation's board of directors without action by the shareholders.

If a domestication is abandoned under this subsection after articles of charter surrender have been filed with the Secretary of State but before the domestication has become effective, a statement that the domestication has been abandoned in accordance with this section, executed by an officer or other duly authorized representative of the corporation, must be delivered to the Secretary of State for filing prior to the effective date of the domestication. The statement takes effect upon filing, and the domestication is considered abandoned and does not become effective.

[PL 2003, c. 344, Pt. B, §78 (AMD).]

**2. Abandonment of domestication by foreign business corporation.** If the domestication of a foreign business corporation in this State is abandoned in accordance with the laws of the foreign jurisdiction after articles of domestication have been filed with the Secretary of State, a statement that the domestication has been abandoned, executed by an officer or other duly authorized representative of the corporation, must be delivered to the Secretary of State for filing. The statement takes effect upon filing, and the domestication is considered abandoned and does not become effective.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2003, c. 344, §B78 (AMD).

**SUBCHAPTER 2****NONPROFIT CONVERSION****§931. Nonprofit conversion**

**1. Domestic nonprofit corporation; nonprofit conversion plan.** A domestic business corporation may become a domestic nonprofit corporation pursuant to a plan of nonprofit conversion as provided in this subchapter.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Foreign nonprofit corporation; nonprofit conversion plan.** A domestic business corporation may become a foreign nonprofit corporation if the nonprofit conversion is permitted by the laws of the foreign jurisdiction. Regardless of whether the laws of the foreign jurisdiction require the adoption of a plan of nonprofit conversion, the foreign nonprofit conversion must be approved by the adoption by the domestic business corporation of a plan of nonprofit conversion in the manner provided in this subchapter. The laws of the foreign jurisdiction govern the effect of the foreign nonprofit conversion.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**3. Nonprofit conversion plan.** A plan of nonprofit conversion pursuant to subsection 1 or 2 must include:

A. The terms and conditions of the conversion; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. The manner and basis of reclassifying the shares of the corporation following its conversion into memberships, if any, or securities, obligations, rights to acquire memberships or securities, cash, other property or any combination thereof; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. Any desired amendments to the articles of incorporation of the corporation following its conversion; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

D. If the domestic business corporation is to be converted to a foreign nonprofit corporation, a statement naming the jurisdiction in which the corporation will be incorporated after the conversion. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**4. Amendment provision.** A plan of nonprofit conversion under this section may also include a provision that the plan may be amended prior to the filing of articles of nonprofit conversion, except that after approval of the plan by the shareholders the plan may not be amended to change:

A. The amount or kind of memberships or securities, obligations, rights to acquire memberships or securities, cash or other property to be received by the shareholders under the plan; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. The articles of incorporation as they will be in effect immediately following the conversion, except for changes permitted by section 1005; or [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. Any of the other terms or conditions of the plan if the change would adversely affect any of the shareholders in any material respect. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**5. Transitional rule.** If any debt security, note or similar evidence of indebtedness for money borrowed, whether secured or unsecured, or a contract of any kind issued, incurred or signed by a domestic business corporation before July 1, 2003 contains a provision applying to a merger of the

domestic business corporation and the document does not refer to a nonprofit conversion of the domestic business corporation, the provision is deemed to apply to a nonprofit conversion of the domestic business corporation until the provision is amended.

[PL 2011, c. 274, §42 (AMD).]

**6. Extrinsic facts.** Terms of a plan of nonprofit conversion may be made dependent upon facts objectively ascertainable outside the plan in accordance with section 121, subsection 10.

[PL 2003, c. 344, Pt. B, §80 (NEW).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2003, c. 344, §§B79,80 (AMD). PL 2011, c. 274, §42 (AMD).

#### §932. Action on plan of nonprofit conversion

In the case of a conversion of a domestic business corporation to a domestic or foreign nonprofit corporation: [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**1. Plan adopted by directors.** The plan of nonprofit conversion must be adopted by the corporation's board of directors;

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Shareholders' approval.** After adopting the plan of nonprofit conversion, the corporation's board of directors shall submit the plan to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the plan, unless:

A. The board of directors makes a determination that because of conflicts of interest or other special circumstances the board of directors should not make such a recommendation; or [PL 2011, c. 274, §43 (NEW).]

B. Section 827 applies. [PL 2011, c. 274, §43 (NEW).]

If paragraph A or B applies, the board of directors shall transmit to the shareholders the basis for so proceeding;

[PL 2011, c. 274, §43 (RPR).]

**3. Conditional submission.** The corporation's board of directors may condition its submission of the plan of nonprofit conversion to the shareholders on any basis;

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**4. Notice of meeting.** If the approval of the shareholders of the plan of nonprofit conversion is to be given at a meeting, the domestic business corporation shall notify each shareholder of the meeting of shareholders at which the plan of nonprofit conversion is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the plan and must contain or be accompanied by a copy or summary of the plan. The notice must include or be accompanied by a copy of the corporation's articles of incorporation as they will be in effect immediately after the nonprofit conversion;

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**5. Majority approval.** Unless the corporation's articles of incorporation or its board of directors acting pursuant to subsection 3 requires a greater vote, approval of the plan of nonprofit conversion requires the approval of the shareholders by a majority of all the votes entitled to be cast on the plan by the shareholders and, if any class or series is entitled to vote as a separate voting group on the plan, the approval of each such separate voting group by a majority of all the votes entitled to be cast on the plan by that voting group. The articles of incorporation may provide that the plan may be approved by a lesser vote of each voting group entitled to vote on the plan but in no case less than a majority of the votes cast by that voting group at a meeting at which there exists, for each such voting group, a quorum



consisting of at least a majority of the votes entitled to be cast on the plan by each voting group entitled to vote on the plan;

[PL 2003, c. 344, Pt. B, §81 (AMD).]

**6. Voting groups.** In addition to the vote required under subsection 5, separate voting by voting groups is also required by each class or series of shares. Unless the corporation's articles of incorporation or its board of directors acting pursuant to subsection 3 requires a greater vote or a greater number of votes to be present, if the corporation has more than one class or series of shares outstanding, approval of the plan of nonprofit conversion requires the approval of each separate voting group by a majority of the votes entitled to be cast on the nonprofit conversion by that voting group; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**7. Transitional rule.** If any provision of the corporation's articles of incorporation or bylaws or of an agreement to which any of the directors or shareholders are parties, adopted or entered into before July 1, 2003, other than a provision that eliminates or limits voting or appraisal rights, applies to a merger and the document does not refer to a nonprofit conversion of the domestic business corporation, the provision is deemed to apply to a nonprofit conversion of the domestic business corporation until the provision is amended.

[PL 2011, c. 274, §44 (AMD).]

**8. Consent of shareholders.** A plan of nonprofit conversion may be approved for a participating corporation by written consent of shareholders entitled to vote, as provided in section 704. If the plan of nonprofit conversion is approved by written consent of all shareholders, whether or not entitled to vote, a resolution of the board of directors of the participating corporation approving, proposing, submitting, recommending or otherwise respecting the plan of nonprofit conversion is not necessary and shareholders of the participating corporation are not entitled to receive notice of or to dissent from the plan of nonprofit conversion.

[PL 2003, c. 344, Pt. B, §82 (NEW).]

## SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2003, c. 344, §§B81,82 (AMD). PL 2011, c. 274, §§43, 44 (AMD).

### §933. Articles of nonprofit conversion

**1. Articles of nonprofit conversion.** After a plan of nonprofit conversion providing for the conversion of a domestic business corporation, referred to in this section as the "corporation," to a domestic nonprofit corporation has been adopted and approved as required by this Act, articles of nonprofit conversion must be executed on behalf of the corporation by an officer or other duly authorized representative of the corporation. The articles must set forth:

A. The name of the corporation immediately before the filing of the articles of nonprofit conversion and, if that name does not satisfy the requirements of the Maine Nonprofit Corporation Act or the corporation desires to change its name in connection with the conversion, a name that satisfies the requirements of the Maine Nonprofit Corporation Act; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. A statement that the plan of nonprofit conversion was duly approved by the shareholders in the manner required by this Act and the articles of incorporation. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Provisions of articles of nonprofit conversion.** The articles of nonprofit conversion must either contain all the provisions that the Maine Nonprofit Corporation Act requires to be set forth in articles of incorporation of a domestic nonprofit corporation with any other desired provisions permitted by the Maine Nonprofit Corporation Act or have attached articles of incorporation that satisfy

the requirements of the Maine Nonprofit Corporation Act. In either case, provisions that would not be required by the Maine Nonprofit Corporation Act to be included in restated articles of incorporation of a domestic nonprofit corporation may be omitted.

[PL 2003, c. 344, Pt. B, §83 (AMD).]

**3. Delivery to Secretary of State.** The articles of nonprofit conversion must be delivered to the Secretary of State for filing and take effect at the effective time provided in section 125.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2003, c. 344, §B83 (AMD).

#### §934. Surrender of charter upon foreign nonprofit conversion

**1. Articles of charter surrender.** Whenever a domestic business corporation, referred to in this section as the "corporation," has adopted and approved, in the manner required by this subchapter, a plan of nonprofit conversion providing for the corporation to be converted to a foreign nonprofit corporation, articles of charter surrender must be executed on behalf of the corporation by an officer or other duly authorized representative of the corporation. The articles of charter surrender must set forth:

A. The name of the corporation; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. A statement that the articles of charter surrender are being filed in connection with the conversion of the corporation to a foreign nonprofit corporation; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. A statement that the foreign nonprofit conversion was duly approved by the shareholders in the manner required by this Act and the corporation's articles of incorporation; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

D. The corporation's new jurisdiction of incorporation. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Filing of articles of charter surrender.** The articles of charter surrender must be delivered by the corporation to the Secretary of State for filing. The articles of charter surrender take effect on the effective time provided in section 125.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF).

#### §935. Effect of nonprofit conversion

**1. Conversion to domestic nonprofit corporation.** When the conversion of a domestic business corporation to a domestic nonprofit corporation, referred to in this subsection as the "corporation," becomes effective:

A. The title to all real and personal property, both tangible and intangible, of the domestic business corporation remains in the corporation without reversion or impairment; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. The liabilities of the domestic business corporation remain the liabilities of the corporation; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. An action or proceeding pending against the domestic business corporation continues against the corporation as if the conversion had not occurred; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

D. The articles of nonprofit conversion, or the articles of incorporation attached to the articles of nonprofit conversion, constitute the articles of incorporation of the corporation; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

E. The shares of the corporation are reclassified into memberships, securities, obligations, rights to acquire memberships or securities or into cash or other property in accordance with the plan of conversion, and the shareholders are entitled only to the rights provided in the plan of nonprofit conversion or to any rights they may have under chapter 13; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

F. The corporation is deemed to:

- (1) Be a domestic nonprofit corporation for all purposes;
- (2) Be the same corporation without interruption as the domestic business corporation; and
- (3) Have been incorporated on the date that it was originally incorporated as a domestic business corporation. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Conversion to foreign nonprofit corporation.** When the conversion of a domestic business corporation to a foreign nonprofit corporation becomes effective, that foreign nonprofit corporation is deemed to:

A. Appoint the Secretary of State as its agent for service of process in a proceeding to enforce the rights of shareholders who exercise appraisal rights in connection with the conversion and that domestic business corporation shall provide a mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State; and [PL 2003, c. 344, Pt. B, §84 (AMD).]

B. Agree to promptly pay the amount, if any, to which the shareholders are entitled under chapter 13. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2003, c. 344, Pt. B, §84 (AMD).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2003, c. 344, §B84 (AMD).

#### §936. Abandonment of nonprofit conversion

**1. Abandonment of plan.** Unless otherwise provided in a plan of nonprofit conversion of a domestic business corporation, after the plan has been adopted and approved as required by this subchapter and at any time before the nonprofit conversion has become effective, the plan may be abandoned by the corporation's board of directors without action by the shareholders.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Statement of abandonment.** If a nonprofit conversion is abandoned under subsection 1 after articles of nonprofit conversion or articles of charter surrender have been filed with the Secretary of State but before the nonprofit conversion has become effective, a statement that the nonprofit conversion has been abandoned in accordance with this section, executed by an officer or other duly authorized representative of the corporation, must be delivered to the Secretary of State for filing prior to the effective date of the nonprofit conversion. The statement takes effect upon filing, and the nonprofit conversion is considered abandoned and does not become effective.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF).

## SUBCHAPTER 3

## FOREIGN NONPROFIT DOMESTICATION AND CONVERSION

**§941. Foreign nonprofit domestication and conversion**

A foreign nonprofit corporation may become a domestic business corporation only if the domestication and conversion is permitted by the organic law of the foreign nonprofit corporation. The laws of this State govern the effect of converting to a domestic business corporation pursuant to this subchapter. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

## SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF).

**§942. Articles of domestication and conversion**

**1. Conversion to domestic business corporation.** After the conversion of a foreign nonprofit corporation to a domestic business corporation, referred to in this subsection as the "corporation," has been authorized as required by the laws of the foreign jurisdiction, articles of domestication and conversion must be executed by an officer or other duly authorized representative of the corporation. The articles must set forth:

A. The name of the corporation immediately before the filing of the articles of domestication and conversion and, if that name is unavailable for use in this State or the corporation desires to change its name in connection with the domestication and conversion, a name that satisfies the requirements of section 401; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. The jurisdiction of incorporation of the corporation immediately before the filing of the articles of domestication and conversion and the date the corporation was incorporated in that jurisdiction; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. A statement that the domestication and conversion of the corporation in this State was duly authorized as required by the laws of the jurisdiction in which the corporation was incorporated immediately before its domestication and conversion in this State. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Provision of articles of domestication and conversion.** The articles of domestication and conversion executed in accordance with subsection 1 must either contain all the provisions that section 202, subsection 1 requires to be set forth in articles of incorporation with any other desired provisions that section 202, subsection 2 permits to be included in articles of incorporation or have attached articles of incorporation. In either case, provisions that would not be required by chapter 10 to be included in restated articles of incorporation may be omitted.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**3. Filing with Secretary of State.** Articles of domestication and conversion executed in accordance with subsection 1 must be delivered to the Secretary of State for filing and take effect at the effective time provided in section 125.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**4. Certificate of authority.** If the foreign nonprofit corporation is authorized to carry on activities in this State under the provisions of the Maine Nonprofit Corporation Act, its certificate of authority is cancelled automatically on the effective date of its domestication and conversion.

[PL 2003, c. 344, Pt. B, §85 (AMD).]

## SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2003, c. 344, §B85 (AMD).

**§943. Effect of foreign nonprofit domestication and conversion**

**1. Effect of domestication and conversion.** When a domestication and conversion of a foreign nonprofit corporation to a domestic business corporation, referred to in this subsection as the "corporation," becomes effective:

A. The title to all real and personal property, both tangible and intangible, of the foreign nonprofit corporation remains in the corporation without reversion or impairment; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. The liabilities of the foreign nonprofit corporation remain the liabilities of the corporation; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. An action or proceeding pending against the foreign nonprofit corporation continues against the corporation as if the domestication and conversion had not occurred; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

D. The articles of domestication and conversion, or the articles of incorporation attached to the articles of domestication and conversion, constitute the articles of incorporation of the corporation; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

E. Shares, other securities, obligations, rights to acquire shares or other securities of the corporation or cash or other property must be issued or paid as provided pursuant to the laws of the foreign jurisdiction, so long as at least one share is outstanding immediately after the effective time; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

F. The corporation is deemed to:

(1) Be a domestic business corporation for all purposes;

(2) Be the same corporation without interruption as the corporation that existed under the laws of the jurisdiction in which it was formerly domiciled; and

(3) Have been incorporated on the date it was originally incorporated in the former jurisdiction. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Owner liability.** The owner liability of a member of a foreign nonprofit corporation that domesticates and converts to a domestic business corporation is as provided in this subsection.

A. The domestication and conversion does not discharge any owner liability under the laws of the foreign jurisdiction to the extent any such owner liability arose before the effective time of the articles of domestication and conversion. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. The member does not have owner liability under the laws of the foreign jurisdiction for any debt, obligation or liability of the corporation that arises after the effective time of the articles of domestication and conversion. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. The provisions of the laws of the foreign jurisdiction continue to apply to the collection or discharge of any owner liability preserved by paragraph A as if the domestication and conversion had not occurred and the domestic business corporation were still incorporated under the laws of the foreign jurisdiction. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

D. The member has whatever rights of contribution from other members are provided by the laws of the foreign jurisdiction with respect to any owner liability preserved by paragraph A as if the domestication and conversion had not occurred and the domestic business corporation were still

incorporated under the laws of that jurisdiction. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF).

#### **§944. Abandonment of foreign nonprofit domestication and conversion**

If the domestication and conversion of a foreign nonprofit corporation to a domestic business corporation is abandoned in accordance with the laws of the foreign jurisdiction after articles of domestication and conversion have been filed with the Secretary of State, a statement that the domestication and conversion has been abandoned, executed by an officer or other duly authorized representative of the corporation, must be delivered to the Secretary of State for filing. The statement takes effect upon filing, and the domestication and conversion is considered abandoned and does not become effective. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF).

### SUBCHAPTER 4

#### ENTITY CONVERSION

#### **§951. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**1. Converting entity.** "Converting entity" means the domestic business corporation or domestic unincorporated entity that adopts a plan of entity conversion or the foreign unincorporated entity converting to a domestic business corporation.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Surviving entity.** "Surviving entity" means the corporation or unincorporated entity as it continues in existence immediately after consummation of an entity conversion pursuant to this subchapter.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF).

#### **§952. Entity conversion authorized**

**1. Domestic other entity.** A domestic business corporation may become a domestic unincorporated entity pursuant to a plan of entity conversion. If the organic law of the unincorporated entity does not provide for such a conversion, section 957 governs the effect of converting to that form of unincorporated entity.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Foreign unincorporated entity.** A domestic business corporation may become a foreign unincorporated entity only if the entity conversion is permitted by the laws of the foreign jurisdiction. The laws of the foreign jurisdiction govern the effect of converting to an unincorporated entity in that jurisdiction.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**3. Entity conversion.** A domestic unincorporated entity may become a domestic business corporation. Section 957 governs the effect of converting to a domestic business corporation. If the organic law of a domestic unincorporated entity does not provide procedures for the approval of an entity conversion, the conversion must be adopted and approved, and the entity conversion effectuated, in the same manner as a merger of the unincorporated entity, and its interest holders are entitled to appraisal rights if appraisal rights are available upon any type of merger under the organic law of the unincorporated entity. If the organic law of a domestic unincorporated entity does not provide procedures for the approval of either an entity conversion or a merger, a plan of entity conversion must be adopted and approved, the entity conversion effectuated and appraisal rights exercised in accordance with the procedures in this subchapter and chapter 13. Without limiting the provisions of this subsection, a domestic unincorporated entity whose organic law does not provide procedures for the approval of an entity conversion is subject to subsection 5 and section 954, subsection 8. For purposes of applying this subchapter and chapter 13:

A. The unincorporated entity and its interest holders, interests and organic documents taken together are deemed to be a domestic business corporation and its shareholders, shares and articles of incorporation, respectively and vice versa, as the context may require; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. If the business and affairs of the unincorporated entity are managed by a group of persons that is not identical to the interest holders, that group is deemed to be the board of directors. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]  
[PL 2003, c. 344, Pt. B, §86 (AMD).]

**4. Authorization to become corporation.** A foreign unincorporated entity may become a domestic business corporation if the organic law of the foreign unincorporated entity authorizes it to become a corporation in another jurisdiction. The laws of this State govern the effect of conversion to a domestic business corporation pursuant to this subchapter.  
[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**5. Transitional rule.** If any debt security, note or similar evidence of indebtedness for money borrowed, whether secured or unsecured, or a contract of any kind issued, incurred or signed by a domestic business corporation before July 1, 2003, applies to a merger of the corporation and the document does not refer to an entity conversion of the corporation, the provision is deemed to apply to an entity conversion of the corporation until the provision is amended.  
[PL 2011, c. 274, §45 (AMD).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2003, c. 344, §B86 (AMD). PL 2011, c. 274, §45 (AMD).

#### §953. Plan of entity conversion

**1. Plan of entity conversion.** A plan of entity conversion under section 952 must include:

A. A statement of the type of unincorporated entity the surviving entity will be and, if the other entity will be a foreign unincorporated entity, its jurisdiction of organization; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. The terms and conditions of the conversion; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. The manner and basis of converting the shares of the domestic business corporation following its conversion into interests or other securities, obligations, rights to acquire interests or other securities, cash, other property, or any combination thereof; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

D. The full text of the organic documents of the surviving entity as they will be in effect immediately after consummation of the conversion. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Amendment of plan.** A plan of entity conversion may also include a provision that the plan may be amended prior to the filing of articles of entity conversion, except that after approval of the plan by the shareholders the plan may not be amended to change:

A. The amount or kind of shares or other securities, interests, obligations, rights to acquire shares, other securities or interests, cash or other property to be received under the plan by the shareholders; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. The organic documents that will be in effect immediately following the conversion, except for changes permitted by a provision of the organic law of the surviving entity comparable to section 1005; or [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. Any of the other terms or conditions of the plan if the change would adversely affect any of the shareholders in any material respect. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**3. Extrinsic facts.** Terms of a plan of entity conversion may be made dependent upon facts objectively ascertainable outside the plan in accordance with section 121, subsection 10.

[PL 2003, c. 344, Pt. B, §87 (NEW).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2003, c. 344, §B87 (AMD).

#### §954. Action on plan of entity conversion

In the case of an entity conversion of a domestic business corporation, referred to in this section as the "corporation," to a domestic or foreign unincorporated entity: [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**1. Plan adopted by board.** The plan of entity conversion must be adopted by the corporation's board of directors;

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Shareholders' approval.** After adopting the plan of entity conversion, the corporation's board of directors shall submit the plan to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the plan, unless:

A. The board of directors makes a determination that because of conflicts of interest or other special circumstances the board of directors should not make such a recommendation; or [PL 2011, c. 274, §46 (NEW).]

B. Section 827 applies. [PL 2011, c. 274, §46 (NEW).]

If paragraph A or B applies, the board of directors shall transmit to the shareholders the basis for so proceeding;

[PL 2011, c. 274, §46 (RPR).]

**3. Conditional submission.** The corporation's board of directors may condition its submission of the plan of entity conversion to the shareholders on any basis;

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**4. Notice of meeting.** If the approval of the shareholders of the plan of entity conversion under subsection 2 is to be given at a meeting, the corporation shall notify each shareholder, whether or not



entitled to vote, of the meeting of shareholders at which the plan of entity conversion is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the plan and must contain or be accompanied by a copy or summary of the plan. The notice must include or be accompanied by a copy of the organic documents of the surviving entity as they will be in effect immediately after the entity conversion;

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**5. Majority approval.** Unless the corporation's articles of incorporation or its board of directors acting pursuant to subsection 3 requires a greater vote, approval of the plan of entity conversion requires the approval of the shareholders at a meeting by a majority of all the votes entitled to be cast on the plan by the shareholders, voting as a single voting group. The articles of incorporation may provide that the plan may be approved by a lesser vote of each voting group entitled to vote on the plan but in no case less than a majority of the votes cast by that voting group at a meeting at which there exists, for each such voting group, a quorum consisting of at least a majority of the votes entitled to be cast on the plan by each voting group entitled to vote on the plan;

[PL 2003, c. 344, Pt. B, §88 (AMD).]

**6. Voting groups.** In addition to the vote required under subsection 5, separate voting by voting groups is also required by each class or series of shares. Unless the corporation's articles of incorporation or the board of directors acting pursuant to subsection 3 requires a greater vote or a greater number of votes to be present, if the corporation has more than one class or series of shares outstanding, approval of the plan of entity conversion requires the approval of each such separate voting group by a majority of the votes entitled to be cast on the conversion by that voting group. The articles of incorporation may provide that the plan may be approved by a lesser vote of each class or series of shares as provided in subsection 5;

[PL 2003, c. 344, Pt. B, §88 (AMD).]

**7. Transitional rule.** If any provision of the corporation's articles of incorporation or bylaws or of an agreement to which any of the directors or shareholders are parties, adopted or entered into before July 1, 2003, other than a provision that eliminates or limits voting or appraisal rights, applies to a merger and the document does not refer to an entity conversion of the corporation, the provision is deemed to apply to an entity conversion of the corporation until the provision is amended;

[PL 2011, c. 274, §47 (AMD).]

**8. Written consent.** If as a result of an entity conversion one or more shareholders of the corporation would become subject to owner liability for the debts, obligations or liabilities of any other person or entity, approval of the plan of conversion requires the execution by each such shareholder of a separate written consent to become subject to such owner liability; and

[PL 2003, c. 344, Pt. B, §88 (AMD).]

**9. Consent of shareholders.** A plan of entity conversion may be approved for a participating corporation by written consent of shareholders entitled to vote, as provided in section 704. If the plan of entity conversion is approved by written consent of all shareholders, whether or not entitled to vote, a resolution of the board of directors of the participating corporation approving, proposing, submitting, recommending or otherwise respecting the plan of entity conversion is not necessary and shareholders of the participating corporation are not entitled to receive notice of or to dissent from the plan of nonprofit conversion.

[PL 2003, c. 344, Pt. B, §89 (NEW).]

## SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2003, c. 344, §§B88,89 (AMD). PL 2011, c. 274, §§46, 47 (AMD).

### §955. Articles of entity conversion

**1. Conversion to domestic unincorporated entity.** After the conversion of a domestic business corporation, referred to in this subsection as the "corporation," to a domestic unincorporated entity has been adopted and approved as required by this Act, articles of entity conversion must be executed on behalf of the corporation by an officer or other duly authorized representative. The articles must:

A. Set forth the name of the corporation immediately before the filing of the articles of entity conversion and the name to which the name of the corporation is to be changed, which must be a name that satisfies the organic law of the surviving entity; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. State the type of unincorporated entity that the surviving entity will be; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. Set forth a statement that the plan of entity conversion was duly approved by the shareholders in the manner required by this Act and the corporation's articles of incorporation; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

D. If the surviving entity is a filing entity, either contain all the provisions required to be set forth in its public organic document with any other desired provisions that are permitted or have attached a public organic document; except that, in either case, provisions that would not be required by chapter 10 to be included in a restated public organic document may be omitted. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Conversion to domestic business corporation.** After the conversion of a domestic unincorporated entity to a domestic business corporation has been adopted and approved as required by the organic law of the unincorporated entity, articles of entity conversion must be executed on behalf of the unincorporated entity by an officer or other duly authorized representative of the unincorporated entity. The articles must:

A. Set forth the name of the unincorporated entity immediately before the filing of the articles of entity conversion and the name to which the name of the unincorporated entity is to be changed, which must be a name that satisfies the requirements of section 401; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. Set forth a statement that the plan of entity conversion was duly approved in accordance with the organic law of the unincorporated entity; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. Either contain all the provisions that section 202, subsection 1 requires to be set forth in articles of incorporation with any other desired provisions that section 202, subsection 2 permits to be included in articles of incorporation or have attached articles of incorporation; except that, in either case, provisions that would not be required under chapter 10 to be included in restated articles of incorporation of a domestic business corporation may be omitted. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2003, c. 344, Pt. B, §90 (AMD).]

**3. Conversion by law of foreign jurisdiction.** After the conversion of a foreign unincorporated entity to a domestic business corporation is authorized as required by the laws of the foreign jurisdiction, articles of entity conversion must be executed on behalf of the foreign unincorporated entity by an officer or other duly authorized representative of the unincorporated entity. The articles must:

A. Set forth the name of the unincorporated entity immediately before the filing of the articles of entity conversion and the name to which the name of the unincorporated entity is to be changed, which must be a name that satisfies the requirements of section 401; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. Set forth the jurisdiction under the laws of which the unincorporated entity was organized immediately before the filing of the articles of entity conversion and the date on which the unincorporated entity was organized in that jurisdiction; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. Set forth a statement that the conversion of the unincorporated entity was duly approved in the manner required by its organic law; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

D. Either contain all the provisions that section 202, subsection 1 requires to be set forth in articles of incorporation with any other desired provisions that section 202, subsection 2 permits to be included in articles of incorporation or have attached articles of incorporation; except that, in either case, provisions that would not be required by chapter 10 to be included in restated articles of incorporation of a domestic business corporation may be omitted. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2003, c. 344, Pt. B, §91 (AMD).]

**3-A. File with Secretary of State.** The articles of entity conversion must be delivered to the Secretary of State for filing and take effect at the effective time provided in section 125. [RR 2001, c. 2, Pt. A, §22 (COR); RR 2001, c. 2, Pt. A, §23 (AFF).]

**4. Certificate of authority; cancelled.** If the converting entity is a foreign unincorporated entity that is authorized to transact business in this State under a provision of law similar to chapter 15, its certificate of authority or other type of foreign qualification is cancelled automatically on the effective date of its conversion.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

#### SECTION HISTORY

RR 2001, c. 2, §A22 (COR). RR 2001, c. 2, §A23 (AFF). PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2003, c. 344, §§B90,91 (AMD).

#### §956. Surrender of charter upon conversion

**1. Articles of charter surrender; domestic business corporation.** Whenever a domestic business corporation has adopted and approved, in the manner required by this subchapter, a plan of entity conversion providing for the domestic business corporation, referred to in this section as the "corporation," to be converted to a foreign unincorporated entity, articles of charter surrender must be executed on behalf of the corporation by an officer or other duly authorized representative of the corporation. The articles of charter surrender must set forth:

A. The name of the corporation; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. A statement that the articles of charter surrender are being filed in connection with the conversion of the corporation to a foreign unincorporated entity; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. A statement that the conversion was duly approved by the shareholders in the manner required by this Act and the corporation's articles of incorporation; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

D. The jurisdiction under the laws of which the surviving entity is organized; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

E. If the surviving entity is a nonfiling entity, the address of its executive office immediately after the conversion. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. File with Secretary of State.** The articles of charter surrender must be delivered by the corporation to the Secretary of State for filing. The articles of charter surrender take effect on the effective time provided in section 125.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF).

#### §957. Effect of entity conversion

**1. Conversion to domestic business corporation or domestic other entity.** When a conversion under this subchapter in which the surviving entity is a domestic business corporation or domestic unincorporated entity becomes effective:

A. The title to all real and personal property, both tangible and intangible, of the converting entity remains in the surviving entity without reversion or impairment; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. The liabilities of the converting entity remain the liabilities of the surviving entity; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. An action or proceeding pending against the converting entity continues against the surviving entity as if the conversion had not occurred; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

D. In the case of a surviving entity that is a filing entity, the articles of conversion or the articles of incorporation or public organic document attached to the articles of conversion constitute the articles of incorporation or public organic document of the surviving entity; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

E. In the case of a surviving entity that is a nonfiling entity, the private organic document provided for in the plan of entity conversion constitutes the private organic document of the surviving entity; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

F. The shares or interests of the converting entity are reclassified into shares, interests, other securities, obligations, rights to acquire shares, interests or other securities or into cash or other property in accordance with the plan of entity conversion; and the shareholders or interest holders of the converting entity are entitled only to the rights provided in the plan of entity conversion and to any rights they may have under chapter 13; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

G. The surviving entity is deemed to:

(1) Be a domestic business corporation or domestic unincorporated entity for all purposes;

(2) Be the same corporation or unincorporated entity without interruption as the converting entity; and

(3) Have been incorporated or otherwise organized on the date that the converting entity was originally incorporated or organized. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Conversion to a foreign other entity.** When a conversion of a domestic business corporation to a foreign unincorporated entity becomes effective, the surviving entity is deemed to:

A. Appoint the Secretary of State as its agent for service of process in a proceeding to enforce the rights of shareholders who exercise appraisal rights in connection with the conversion and shall provide a mailing address to which the Secretary of State may mail a copy of any process served

on the Secretary of State; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. Agree to promptly pay the amount, if any, to which the shareholders are entitled under chapter 13. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]  
[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**3. Owner liability; shareholder.** A shareholder who becomes subject to owner liability for some or all of the debts, obligations or liabilities of the surviving entity is personally liable only for those debts, obligations or liabilities of the surviving entity that arise after the effective time of the articles of entity conversion.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**4. Interest holder; owner liability.** The owner liability of an interest holder in an unincorporated entity that converts to a domestic business corporation is as provided in this subsection.

A. The conversion does not discharge any owner liability under the organic law of the unincorporated entity to the extent any owner liability arose before the effective time of the articles of entity conversion. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. The interest holder does not have owner liability under the organic law of the unincorporated entity for any debt, obligation or liability of the domestic business corporation that arises after the effective time of the articles of entity conversion. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. The provisions of the organic law of the unincorporated entity continue to apply to the collection or discharge of any owner liability preserved by paragraph A as if the conversion had not occurred and the surviving entity were still the converting entity. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

D. The interest holder has whatever rights of contribution from other interest holders are provided by the organic law of the unincorporated entity with respect to any owner liability preserved by paragraph A as if the conversion had not occurred and the surviving entity were still the converting entity. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

## SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF).

### §958. Abandonment of entity conversion

**1. Conversion abandoned by board of directors.** Unless otherwise provided in a plan of entity conversion of a domestic business corporation, after the plan has been adopted and approved as required by this subchapter and at any time before the entity conversion has become effective, it may be abandoned by the corporation's board of directors without action by the shareholders.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Statement of abandonment.** If an entity conversion is abandoned after articles of entity conversion or articles of charter surrender have been filed with the Secretary of State but before the entity conversion has become effective, a statement that the entity conversion has been abandoned in accordance with this section, executed by an officer or other duly authorized representative of the corporation, must be delivered to the Secretary of State for filing prior to the effective date of the entity conversion. Upon filing, the statement takes effect and the entity conversion is considered abandoned and does not become effective.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

## SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF).

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