

# SENATE BILL 481

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CF HB 744

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By: **Senator Feldman**

Introduced and read first time: January 30, 2017

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 8, 2017

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Corporations – Maryland General Corporation Law – Miscellaneous Provisions**

3 FOR the purpose of providing that certain individuals, under certain circumstances, are  
4 deemed to have consented to the appointment of the resident agent of a Maryland  
5 corporation or a Maryland real estate investment trust or, if there is no resident  
6 agent, the State Department of Assessments and Taxation, as an agent on which  
7 service of process may be made in certain actions or proceedings; providing that a  
8 certain consent to service of process is effective under certain circumstances and has  
9 certain legal force and validity; providing that a certain appointment as an agent for  
10 service of process is irrevocable; requiring the Department to collect a certain  
11 additional fee for processing a certified list of certain charter documents or  
12 certificates of certain business entities on an expedited basis; altering certain  
13 requirements for the execution and signing of certain documents; altering certain  
14 requirements for the resident agent of a Maryland corporation, a limited  
15 partnership, and a Maryland statutory trust; prohibiting the charter or bylaws of a  
16 corporation with capital stock from imposing liability on a certain stockholder for the  
17 attorney's fees or expenses of the corporation or any other party in connection with  
18 a certain claim; authorizing the charter or bylaws of a corporation, consistent with  
19 certain requirements, to require that certain claims be brought only in certain courts;  
20 prohibiting certain provisions of the charter or bylaws of a corporation from  
21 prohibiting certain claims from being brought in certain courts; altering the officers  
22 of a corporation required to countersign a stock certificate; authorizing the board of  
23 directors of a corporation to adopt a certain procedure by resolution unless the  
24 charter or bylaws provide otherwise; requiring a certain number of the last acting  
25 officers of a corporation, the charter of which has been forfeited for certain reasons,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 instead of the president or vice president, the secretary, and the treasurer, to sign  
2 and acknowledge articles of revival and file them with the Department; requiring  
3 that the directors manage the assets, rather than become the trustees of the assets,  
4 of a corporation for purposes of liquidating the assets when the corporation's charter  
5 has been forfeited; requiring the directors to take certain actions unless and until  
6 articles of revival are filed; repealing a provision of law authorizing the directors to  
7 sue or be sued in their own names as trustees; repealing a provision of law  
8 establishing that the director-trustees govern by majority vote; providing that  
9 forfeiture of the charter of a corporation does not subject a director of the corporation  
10 to a certain standard of conduct; authorizing a nonstock corporation to convert only  
11 into a certain foreign corporation; making certain provisions of this Act applicable to  
12 real estate investment trusts; providing for the application of certain provisions of  
13 this Act; making certain conforming changes; defining a certain term; and generally  
14 relating to the Maryland General Corporation Law and real estate investment  
15 trusts.

16 BY renumbering

17 Article – Corporations and Associations  
18 Section 1–101(p) through (cc), respectively  
19 to be Section 1–101(q) through (dd), respectively  
20 Annotated Code of Maryland  
21 (2014 Replacement Volume and 2016 Supplement)

22 BY adding to

23 Article – Corporations and Associations  
24 Section 1–101(p) and 2–113  
25 Annotated Code of Maryland  
26 (2014 Replacement Volume and 2016 Supplement)

27 BY repealing and reenacting, with amendments,

28 Article – Corporations and Associations  
29 Section 1–203(b)(8), 1–301, 2–108(a), 2–212(a), 2–514(a), 3–507(b)(1), 3–515, 5–207,  
30 8–601.1, 10–104(a), and 12–203(a)  
31 Annotated Code of Maryland  
32 (2014 Replacement Volume and 2016 Supplement)

33 BY adding to

34 Article – Courts and Judicial Proceedings  
35 Section 6–102.1  
36 Annotated Code of Maryland  
37 (2013 Replacement Volume and 2016 Supplement)

38 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
39 That Section(s) 1–101(p) through (cc), respectively, of Article – Corporations and  
40 Associations of the Annotated Code of Maryland be renumbered to be Section(s) 1–101(q)  
41 through (dd), respectively.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
2 as follows:

3 **Article – Corporations and Associations**

4 1–101.

5 **(P) “INTERNAL CORPORATE CLAIM” MEANS A CLAIM, INCLUDING A CLAIM**  
6 **BROUGHT BY OR IN THE RIGHT OF A CORPORATION:**

7 **(1) BASED ON AN ALLEGED BREACH BY A DIRECTOR, AN OFFICER, OR**  
8 **A STOCKHOLDER OF A DUTY OWED TO THE CORPORATION OR THE STOCKHOLDERS**  
9 **OF THE CORPORATION OR A STANDARD OF CONDUCT APPLICABLE TO DIRECTORS;**

10 **(2) ARISING UNDER THIS ARTICLE; OR**

11 **(3) ARISING UNDER THE CHARTER OR BYLAWS OF THE**  
12 **CORPORATION.**

13 1–203.

14 **(b) (8) For processing each of the following documents on an expedited basis,**  
15 **the additional fee is as indicated:**

16 Recording any document, including financing statements, or  
17 submitting for preclearance any document listed in paragraph (1) or (4) of  
18 this subsection, if processing under § 1–203.2(b)(1) of this subtitle is  
19 requested..... \$425

20 Recording any document, including financing statements, or  
21 submitting for preclearance any document listed in paragraph (1) or (4) of  
22 this subsection, if processing under § 1–203.2(b)(1) is not requested ..... \$50

23 Certificate of status of a corporation, partnership, limited  
24 partnership, limited liability partnership, or limited liability company, or a  
25 name reservation ..... \$20

26 **CERTIFIED LIST OF THE CHARTER DOCUMENTS OF A MARYLAND**  
27 **CORPORATION OR ANY CERTIFICATE OF A MARYLAND LIMITED**  
28 **PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, OR LIMITED**  
29 **LIABILITY COMPANY RECORDED OR FILED WITH THE DEPARTMENT .. \$20**

30 A copy of any document recorded or filed with the Department, or a  
31 corporate abstract ..... \$20

32 Application for a ground rent redemption or a ground rent

1 extinguishment, or payment of a redemption or extinguishment amount to  
2 the former owner of the ground rent..... \$50

3 1-301.

4 (a) Articles supplementary and articles of amendment, restatement, amendment  
5 and restatement, consolidation, merger, share exchange, transfer, conversion, and  
6 extension and, except as provided in § 3-406(b) of this article, articles of dissolution shall  
7 be executed as follows:

8 (1) They shall be signed and acknowledged for each corporation, statutory  
9 trust, or real estate investment trust party to the articles, by its chairman or vice chairman  
10 of the board of directors or board of trustees, by its chief executive officer, chief operating  
11 officer, chief financial officer, president, or one of its vice presidents, or, if authorized by the  
12 bylaws or resolution of the board of directors or board of trustees [and the articles so state],  
13 by any other officer or agent of the corporation, statutory trust, or real estate investment  
14 trust;

15 (2) They shall be witnessed or attested by the secretary, treasurer, chief  
16 financial officer, assistant treasurer, or assistant secretary of each corporation, statutory  
17 trust, or real estate investment trust party to the articles, or, if authorized by the bylaws  
18 or resolution of the board of directors or board of trustees [and the articles so state], by any  
19 other officer or agent of the corporation, statutory trust, or real estate investment trust;

20 (3) They shall be signed and acknowledged for each other entity party to  
21 the articles by a person authorized to act for the entity by law or by the governing document;  
22 and

23 (4) Except as provided in subsection (b) of this section, the matters and  
24 facts set forth in the articles with respect to authorization and approval shall be verified  
25 under oath as follows:

26 (i) With respect to any Maryland corporation, statutory trust, or  
27 real estate investment trust party to the articles, by the chairman or the secretary of the  
28 meeting at which the articles or transaction were approved, by the chairman or vice  
29 chairman of the board of directors or board of trustees, by the chief executive officer, chief  
30 operating officer, chief financial officer, president, vice president, secretary, or assistant  
31 secretary of the corporation, statutory trust, or real estate investment trust, or, if  
32 authorized in accordance with item (1) of this subsection [and the articles so state], by any  
33 other officer or agent of the corporation, statutory trust, or real estate investment trust;

34 (ii) With respect to any foreign corporation party to articles of  
35 consolidation, merger, or share exchange, by the chief executive officer, chief operating  
36 officer, chief financial officer, president, vice president, secretary, or assistant secretary of  
37 the corporation; and

1 (iii) With respect to any other Maryland or foreign entity party to the  
2 articles, by a person authorized by law or by the governing document to act for the entity.

3 (b) When articles of transfer are executed:

4 (1) With respect to the transferor corporation, the requirements of  
5 subsection (a)(4)(i) of this section apply;

6 (2) With respect to a transferee corporation, the matters and facts set forth  
7 in the articles with respect to authorization and approval shall be verified under oath by  
8 the chief executive officer, chief operating officer, president, vice president, secretary, or  
9 assistant secretary of the corporation; and

10 (3) With respect to a transferee which is not a corporation, the articles shall  
11 be signed and acknowledged by the transferee.

12 (c) All other instruments required to be filed with the Department may be signed:

13 (1) By the chairman or vice chairman of the board of directors, the chief  
14 executive officer, chief operating officer, president, or any vice president and witnessed or  
15 attested by the secretary or any assistant secretary, or by any other officer or agent of the  
16 corporation who is authorized by the bylaws or resolution of the board of directors to  
17 perform the duties usually performed by the secretary [and the instrument so states];

18 (2) If it appears from the instrument that there are no such officers, by a  
19 majority of the directors or by such directors as may be designated by the board and the  
20 instrument so states; or

21 (3) If it appears from the instrument that there are no officers or directors,  
22 by the holders of a majority of outstanding stock.

23 2-108.

24 (a) Each Maryland corporation shall have:

25 (1) A principal office in this State; and

26 (2) At least one resident agent [who shall be either:

27 (i) A citizen of this State who resides here; or

28 (ii) A Maryland corporation].

29 2-113.

1           **(A) THE CHARTER OR BYLAWS OF A CORPORATION WITH CAPITAL STOCK**  
2 **MAY NOT IMPOSE LIABILITY ON A STOCKHOLDER WHO IS A PARTY TO AN INTERNAL**  
3 **CORPORATE CLAIM FOR THE ATTORNEY'S FEES OR EXPENSES OF THE CORPORATION**  
4 **OR ANY OTHER PARTY IN CONNECTION WITH AN INTERNAL CORPORATE CLAIM.**

5           **(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**  
6 **THE CHARTER OR BYLAWS OF A CORPORATION MAY REQUIRE, CONSISTENT WITH**  
7 **APPLICABLE JURISDICTIONAL REQUIREMENTS, THAT ANY INTERNAL CORPORATE**  
8 **CLAIM BE BROUGHT ONLY IN COURTS SITTING IN ONE OR MORE SPECIFIED**  
9 **JURISDICTIONS.**

10           **(2) (I) THIS PARAGRAPH DOES NOT APPLY TO A PROVISION**  
11 **CONTAINED IN THE CHARTER OR BYLAWS OF A CORPORATION ON OCTOBER 1, 2017,**  
12 **UNLESS AND UNTIL THE PROVISION IS ALTERED OR REPEALED BY AN AMENDMENT**  
13 **TO THE CHARTER OR BYLAWS OF THE CORPORATION, AS APPLICABLE.**

14           **(II) THE CHARTER OR BYLAWS OF A CORPORATION MAY NOT**  
15 **PROHIBIT BRINGING AN INTERNAL CORPORATE CLAIM IN THE COURTS OF THIS**  
16 **STATE OR A FEDERAL COURT SITTING IN THIS STATE.**

17 2-212.

18           (a) Each stock certificate shall be signed by the president, a vice president, the  
19 chief executive officer, the chief operating officer, the chief financial officer, the chairman  
20 of the board, or the vice chairman of the board and countersigned by the secretary, an  
21 assistant secretary, the treasurer, [or] an assistant treasurer, **OR ANY OTHER OFFICER.**

22 2-514.

23           (a) [If the] **THE** charter or bylaws of a corporation [so] **MAY** provide[,] **AND,**  
24 **UNLESS THE CHARTER OR BYLAWS PROVIDE OTHERWISE,** the board of directors may  
25 adopt by resolution a procedure by which a stockholder of the corporation may certify in  
26 writing to the corporation that any shares of stock registered in the name of the stockholder  
27 are held for the account of a specified person other than the stockholder.

28 3-507.

29           (b) (1) [The] **ANY TWO OF THE** last acting [president or vice president and  
30 secretary or treasurer] **OFFICERS** of the corporation shall sign and acknowledge articles of  
31 revival and file them for record with the Department.

32 3-515.

1 (a) When the charter of a Maryland corporation has been forfeited, until a court  
2 appoints a receiver, the directors of the corporation [become the trustees of] **SHALL**  
3 **MANAGE** its assets for purposes of liquidation.

4 (b) [The director–trustees are vested in their capacity as trustees with full title  
5 to all the assets of the corporation. They] **UNLESS AND UNTIL ARTICLES OF REVIVAL**  
6 **ARE FILED, THE DIRECTORS** shall:

7 (1) Collect and distribute the assets, applying them to the payment,  
8 satisfaction, and discharge of existing debts and obligations of the corporation, including  
9 necessary expenses of liquidation; and

10 (2) Distribute the remaining assets among the stockholders.

11 (c) The [director–trustees] **DIRECTORS** may:

12 (1) Carry out the contracts of the corporation;

13 (2) Sell all or any part of the assets of the corporation at public or private  
14 sale;

15 (3) Sue or be sued [in their own names as trustees or] in the name of the  
16 corporation; and

17 (4) Do all other acts consistent with law and the charter of the corporation  
18 necessary or proper to liquidate the corporation and wind up its affairs.

19 [(d) The director–trustees govern by majority vote.]

20 **(D) FORFEITURE OF THE CHARTER OF A CORPORATION DOES NOT SUBJECT**  
21 **A DIRECTOR OF THE CORPORATION TO A STANDARD OF CONDUCT OTHER THAN THE**  
22 **STANDARD OF CONDUCT SET FORTH IN § 2–405.1 OF THIS ARTICLE.**

23 5–207.

24 (a) A nonstock corporation may [consolidate]:

25 **(1) CONSOLIDATE** or merge only with another nonstock corporation; **AND**

26 **(2) CONVERT ONLY INTO A FOREIGN CORPORATION THAT DOES NOT**  
27 **HAVE THE AUTHORITY TO ISSUE STOCK.**

28 (b) A consolidation, merger, [or] transfer of assets, **OR CONVERSION** of a  
29 nonstock corporation shall be effected as provided in Title 3 of this article.

1 (c) Notwithstanding § 3–105(e) of this article, a proposed consolidation, merger,  
2 [or] transfer of assets, **OR CONVERSION** of a nonstock corporation organized to hold title  
3 to property for a labor organization, and for related purposes, shall be approved by the same  
4 affirmative vote of the members of the corporation that the constitution or bylaws of the  
5 labor organization requires for the same action.

6 8–601.1.

7 Sections **2–113**, 2–201(c), 2–313, 2–502(e), and 2–504(f) of this article and, except as  
8 otherwise provided in § 8–601 of this subtitle or in the declaration of trust, § 2–405.1 of this  
9 article shall apply to real estate investment trusts.

10 10–104.

11 (a) Each limited partnership shall have:

12 (1) A principal office in this State; and

13 (2) At least one resident agent [who shall be either:

14 (i) A citizen of the State who resides here; or

15 (ii) A Maryland corporation].

16 12–203.

17 (a) A Maryland statutory trust shall have:

18 (1) A principal office in this State; and

19 (2) At least one resident agent [who is:

20 (i) An individual who resides in the State; or

21 (ii) A Maryland corporation].

22 **Article – Courts and Judicial Proceedings**

23 **6–102.1.**

24 (A) **THIS SECTION APPLIES TO AN INDIVIDUAL WHO, ON OR AFTER**  
25 **OCTOBER 1, 2017:**

26 (1) **ACCEPTS THE ELECTION OR APPOINTMENT AS A DIRECTOR OF A**  
27 **MARYLAND CORPORATION OR A TRUSTEE OF A MARYLAND REAL ESTATE**  
28 **INVESTMENT TRUST; OR**



1           **(2) SERVES AS A DIRECTOR OF A MARYLAND CORPORATION OR A**  
2 **TRUSTEE OF A MARYLAND REAL ESTATE INVESTMENT TRUST.**

3           **(B) AN INDIVIDUAL SUBJECT TO THIS SECTION IS DEEMED, BY THE**  
4 **ACCEPTANCE OR SERVICE, TO HAVE CONSENTED TO THE APPOINTMENT OF THE**  
5 **RESIDENT AGENT OF THE CORPORATION OR REAL ESTATE INVESTMENT TRUST OR,**  
6 **IF THERE IS NO RESIDENT AGENT, THE STATE DEPARTMENT OF ASSESSMENTS AND**  
7 **TAXATION, AS AN AGENT ON WHICH SERVICE OF PROCESS MAY BE MADE IN ANY**  
8 **CIVIL ACTION OR PROCEEDING BROUGHT IN THE STATE:**

9           **(1) (I) BY OR ON BEHALF OF, OR AGAINST, THE CORPORATION OR**  
10 **REAL ESTATE INVESTMENT TRUST; AND**

11                           **(II) TO WHICH THE INDIVIDUAL IS A NECESSARY OR PROPER**  
12 **PARTY; OR**

13           **(2) AGAINST THE INDIVIDUAL FOR AN INTERNAL CORPORATE CLAIM**  
14 **AS DEFINED IN § 1-101 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.**

15           **(C) THE CONSENT TO SERVICE OF PROCESS BY AN INDIVIDUAL UNDER**  
16 **SUBSECTION (B) OF THIS SECTION:**

17           **(1) IS EFFECTIVE WHETHER OR NOT THE INDIVIDUAL IS A DIRECTOR**  
18 **OR TRUSTEE AT THE TIME A CIVIL ACTION OR PROCEEDING IS COMMENCED; AND**

19           **(2) CONSTITUTES THE CONSENT OF THE INDIVIDUAL THAT ANY**  
20 **PROCESS SERVED IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION HAS THE**  
21 **SAME LEGAL FORCE AND VALIDITY AS IF SERVED ON THE INDIVIDUAL.**

22           **(D) THE APPOINTMENT UNDER SUBSECTION (B) OF THIS SECTION OF THE**  
23 **RESIDENT AGENT OF A CORPORATION OR A REAL ESTATE INVESTMENT TRUST OR**  
24 **THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION AS AN AGENT FOR**  
25 **SERVICE OF PROCESS IS IRREVOCABLE.**

26           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 2017.