

26105342D

HOUSE BILL NO. 439

Offered January 14, 2026

Prefiled January 12, 2026

A **BILL** to amend and reenact §§ 13.1-803, 13.1-804, 13.1-804.1, 13.1-806 through 13.1-811, 13.1-813 through 13.1-816, 13.1-819 through 13.1-828, 13.1-834, 13.1-835, 13.1-837 through 13.1-852.1, 13.1-852 through 13.1-860, 13.1-862, 13.1-864, 13.1-865, 13.1-867 through 13.1-870.1, 13.1-871, 13.1-872 through 13.1-897.1, 13.1-898.2 through 13.1-898.5, 13.1-899, 13.1-900, 13.1-902, 13.1-904 through 13.1-910, 13.1-912 through 13.1-923, 13.1-925 through 13.1-936.1, 13.1-937, 13.1-939, 13.1-945, 13.1-1002, and 13.1-1082 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 10 of Title 13.1 an article numbered 1.1, consisting of sections numbered 13.1-814.2 through 13.1-814.9, by adding sections numbered 13.1-837.1 and 13.1-837.2, by adding in Article 7 of Chapter 10 of Title 13.1 a section numbered 13.1-852.01, by adding in Chapter 10 of Title 13.1 an article numbered 7.2, consisting of sections numbered 13.1-852.3 through 13.1-852.7, by adding sections numbered 13.1-861.1, 13.1-871.2, 13.1-889.1, 13.1-894.1, 13.1-895.1, 13.1-898.5:1, by adding in Chapter 10 of Title 13.1 an article numbered 11.2, consisting of sections numbered 13.1-898.8 through 13.1-898.14, by adding in Chapter 10 of Title 13.1 an article numbered 13.1, consisting of sections numbered 13.1-918.1 through 13.1-918.2, and by adding a section numbered 13.1-935.2; and to repeal §§ 13.1-898.6 and 13.1-898.7 and Article 17.1 (§§ 13.1-944.1 through 13.1-944.7) of Chapter 10 of Title 13.1 of the Code of Virginia, relating to Virginia Nonstock Corporation Act.

Patron—Hope

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That §§ 13.1-803, 13.1-804, 13.1-804.1, 13.1-806 through 13.1-811, 13.1-813 through 13.1-816, 13.1-819 through 13.1-828, 13.1-834, 13.1-835, 13.1-837 through 13.1-852.1, 13.1-852 through 13.1-860, 13.1-862, 13.1-864, 13.1-865, 13.1-867 through 13.1-870.1, 13.1-871, 13.1-872 through 13.1-897.1, 13.1-898.2 through 13.1-898.5, 13.1-899, 13.1-900, 13.1-902, 13.1-904 through 13.1-910, 13.1-912 through 13.1-923, 13.1-925 through 13.1-936.1, 13.1-937, 13.1-939, 13.1-945, 13.1-1002, and 13.1-1082 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 10 of Title 13.1 an article numbered 1.1, consisting of sections numbered 13.1-814.2 through 13.1-814.9, by adding sections numbered 13.1-837.1 and 13.1-837.2, by adding in Article 7 of Chapter 10 of Title 13.1 a section numbered 13.1-852.01, by adding in Chapter 10 of Title 13.1 an article numbered 7.2, consisting of sections numbered 13.1-852.3 through 13.1-852.7, by adding sections numbered 13.1-861.1, 13.1-871.2, 13.1-889.1, 13.1-894.1, 13.1-895.1, 13.1-898.5:1, by adding in Chapter 10 of Title 13.1 an article numbered 11.2, consisting of sections numbered 13.1-898.8 through 13.1-898.14, by adding in Chapter 10 of Title 13.1 an article numbered 13.1, consisting of sections numbered 13.1-918.1 through 13.1-918.2, and by adding a section numbered 13.1-935.2 as follows:

§ 13.1-803. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Articles of incorporation" means all documents constituting, at any particular time, the charter of a corporation. It includes the original charter issued by the General Assembly, a court or the Commission and all amendments including certificates of merger, consolidation, or correction. When the articles of incorporation have been restated pursuant to any articles of restatement, amendment, domestication, or merger, it includes only the restated articles of incorporation without the accompanying articles of restatement, amendment, domestication, or merger. When used with respect to a foreign corporation, the "articles of incorporation" of such entity means the document that is equivalent to the articles of incorporation of a domestic corporation.

"Board of directors" means the group of persons vested with the management of the business of the corporation irrespective of the name by which such group is designated, and "director" means a member of the board of directors.

"Certificate," when relating to articles filed with the Commission, means the order of the Commission that makes the articles effective, together with the articles.

"Charitable asset" means property that is given, received, or held for a charitable purpose.

"Charitable corporation" means a domestic corporation that is operated primarily or exclusively for one or more charitable purposes.

"Charitable purpose" means a purpose that (i) would make a corporation operated exclusively for that purpose eligible to be exempt from taxation under § 501 (c)(3) of the Internal Revenue Code or (ii) is

59 *considered charitable under the laws of the Commonwealth or the Internal Revenue Code.*

60 "Commission" means the State Corporation Commission of Virginia.

61 "Conspicuous" means so written, displayed, or presented that a reasonable person against whom the
62 writing is to operate should have noticed it. For example, text that is italicized, is in boldface, contrasting
63 colors, or capitals, or is underlined is conspicuous.

64 "Conversion" means a transaction pursuant to § 13.1-898.9 or 13.1-928.2.

65 "Corporation" or "domestic corporation" means a corporation not authorized by law to issue shares,
66 irrespective of the nature of the business to be transacted, organized under this chapter or existing pursuant to
67 the laws of the Commonwealth on January 1, 1986, or that, by virtue of articles of incorporation, amendment,
68 or merger, has become a domestic corporation of the Commonwealth, even though also being a corporation
69 organized under laws other than the laws of the Commonwealth or that has become a domestic corporation of
70 the Commonwealth pursuant to Article 11.1 (§ 13.1-898.1:1 et seq.) or Article 11.2 (§ 13.1-898.8 et seq.).

71 "Deliver" or "delivery" means any method of delivery used in conventional commercial practice,
72 including delivery by hand, mail, commercial delivery, and, if authorized in accordance with § 13.1-810, by
73 electronic transmission.

74 "Disinterested director" means a director who, at the time action is to be taken under § 13.1-871,
75 13.1-878, or 13.1-880, does not have (i) a financial interest in a matter that is the subject of such action or (ii)
76 a familial, financial, professional, employment, or other relationship with a person who has a financial
77 interest in the matter, either of which would reasonably be expected to affect adversely impair the objectivity
78 of the ~~director~~ director's judgment when participating in the action, and if the action is to be taken under
79 § 13.1-878 or 13.1-880, is also not a party to the proceeding. The presence of one or more of the following
80 circumstances shall not by itself prevent a person from being a disinterested director: (a) nomination or
81 election of the director to the ~~current~~ board of directors by any director who is not a disinterested director
82 with respect to the matter or by any person that has a material relationship with that director, acting alone or
83 participating with others; ~~who is so interested in the matter or;~~ (b) service as a director of another corporation
84 of which ~~an interested person~~ is also a director who is not a disinterested director with respect to the matter,
85 or any person that has a material relationship with that director, is or was also a director; or (c) at the time
86 action is taken under § 13.1-852.7, status as a named defendant, as a director against whom action is
87 demand, or as a director who approved the act being challenged.

88 "Distribution" means a direct or indirect transfer of cash or other property or incurrence of indebtedness
89 by a corporation to or for the benefit of its members in respect of any of its membership interests. A
90 distribution may be in the form of a payment of a dividend, a distribution of indebtedness of the corporation,
91 a distribution in liquidation, or otherwise.

92 "Document" means (i) any tangible medium on which information is inscribed, and includes ~~any writing~~
93 ~~or written instrument~~ handwritten, typed, printed, or similar instruments or copies of such instruments, or (ii)
94 an electronic record.

95 "Domestic," with respect to an entity, means an entity governed as to its internal affairs by the organic law
96 of the Commonwealth.

97 "Domestication" means a transaction pursuant to § 13.1-898.2.

98 "Domestic business trust" has the same meaning as specified in § 13.1-1201.

99 "Domestic limited liability company" has the same meaning as specified in § 13.1-1002.

100 "Domestic limited partnership" has the same meaning as specified in § 50-73.1.

101 "Domestic partnership" means an association of two or more persons to carry on as co-owners of a
102 business for profit formed under § 50-73.88 or predecessor law of the Commonwealth and includes, for all
103 purposes of the laws of the Commonwealth, a registered limited liability partnership.

104 "Domestic stock corporation" has the same meaning as "domestic corporation" as specified in § 13.1-603.

105 "Effective date," when referring to a document for which effectiveness is contingent upon issuance of a
106 certificate by the Commission, means the time and date determined in accordance with § 13.1-806.

107 "Effective date of notice" is defined in subsection I of § 13.1-810.

108 "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical,
109 electromagnetic, or similar capabilities.

110 "Electronic record" means information that is stored in an electronic or other *nontangible* medium and is
111 retrievable in paper form through an automated process used in conventional commercial practice, unless
112 otherwise authorized in accordance with subsection J of § 13.1-810.

113 "Electronic transmission" or "electronically transmitted" means any form or process of communication,
114 not directly involving the physical transfer of paper or ~~other~~ another tangible medium, that (i) is suitable for
115 the retention, retrieval, and reproduction of information by the recipient, and (ii) is retrievable in paper form
116 by the recipient through an automated process used in conventional commercial practice, unless otherwise
117 authorized in accordance with subsection J of § 13.1-810.

118 "Eligible entity" means a domestic or foreign unincorporated entity or a domestic or foreign stock
119 corporation.

120 "Eligible interests" means interests or shares.

121 "Employee" includes, unless otherwise provided in the bylaws, an officer but not a director. A director
 122 may accept duties that make the director also an employee.

123 "Entity" includes any domestic or foreign corporation; any domestic or foreign stock corporation; any
 124 domestic or foreign unincorporated entity; any estate or trust; and any state, the United States, and any
 125 foreign government.

126 "Entity conversion" means conversion. A certificate of entity conversion is the same as a certificate of
 127 conversion.

128 "Expenses" means reasonable expenses of any kind that are incurred in connection with a matter.

129 "Filing entity" means an unincorporated entity other than a general partnership.

130 "Foreign," with respect to an entity, means an entity governed as to its internal affairs by the organic law
 131 of a jurisdiction other than the Commonwealth.

132 "Foreign business trust" has the same meaning as specified in § 13.1-1201.

133 "Foreign corporation" means a corporation not authorized by law to issue shares, organized under laws
 134 other than the laws of the Commonwealth.

135 "Foreign limited liability company" has the same meaning as specified in § 13.1-1002.

136 "Foreign limited partnership" has the same meaning as specified in § 50-73.1.

137 "Foreign partnership" means an association of two or more persons to carry on as co-owners of a business
 138 for profit formed under the laws of any state or jurisdiction other than the Commonwealth, and includes, for
 139 all purposes of the laws of the Commonwealth, a foreign registered limited liability partnership.

140 "Foreign registered limited liability partnership" has the same meaning as specified in § 50-73.79.

141 "Foreign stock corporation" has the same meaning as "foreign corporation" as specified in § 13.1-603.

142 "Foreign unincorporated entity" means a foreign partnership, foreign limited liability company, foreign
 143 limited partnership, or foreign business trust.

144 "Fundamental transaction" means an amendment of the articles of incorporation or bylaws, merger,
 145 interest exchange, disposition of assets requiring member approval, domestication, conversion, or dissolution
 146 of a corporation.

147 "Government subdivision" includes authority, county, district, and municipality.

148 "Includes" denotes a partial definition.

149 "Incorporation surrender" has the same meaning as specified in § 13.1-898.1:1. A certificate of
 150 incorporation surrender is the same as a certificate of domestication.

151 "Individual" means a natural person.

152 "Interest" means either:

153 1. A membership; or

154 2. Either or both of the following rights under the organic law of a foreign or domestic governing an
 155 unincorporated entity:

156 1. The (i) the right to receive distributions from the entity either in the ordinary course or upon
 157 liquidation; or

158 2. The (ii) the right to receive notice or vote on issues involving its internal affairs, other than as an agent,
 159 assignee, proxy, or person responsible for managing its business and affairs.

160 "Interest holder" means a person who holds of record an interest.

161 "Interest holder liability" means:

162 1. Personal liability for a liability of a domestic or foreign stock corporation, a foreign corporation, or an
 163 unincorporated entity that is imposed on a person (i) solely by reason of the status of the person as an
 164 interest holder or (ii) by a provision the organic rules that make specified interest holders or a categories of
 165 interest holder liable in their capacity as interest holders for all or specified liabilities of the entity; or

166 2. An obligation of an interest holder under the organic rules of a domestic or foreign unincorporated
 167 entity to contribute to the entity.

168 "Internal Revenue Code" means the United States Internal Revenue Code of 1986, 26 U.S.C. § 1 et seq.,
 169 as amended.

170 "Jurisdiction of formation" means the state or country the law of which includes the organic law
 171 governing a domestic or foreign corporation or eligible entity.

172 "Means" denotes an exhaustive definition.

173 "Member" means one having a membership interest in a corporation in accordance with the provisions of
 174 its articles of incorporation or bylaws.

175 "Membership interest" means the interest of a member in a domestic or foreign corporation, including
 176 voting and all other rights associated with membership as provided for in its articles of incorporation or
 177 bylaws.

178 "Organic document" means the document, if any, that is filed of public record to create an unincorporated
 179 entity. Where an organic document has been amended or restated, the term means the organic document as
 180 last amended or restated.

181 "Merger" means a transaction pursuant to § 13.1-894 or 13.1-928.1.

182 "Notice" has the same meaning as specified in § 13.1-810.

183 "Organic law" means the statute governing the internal affairs of a domestic or foreign corporation or
184 eligible entity.

185 "Organic rules" means the public organic record and the private organic rules of a domestic or foreign
186 corporation or eligible association."

187 "Partnership" has the same meaning as specified in § 50.1-73.79.

188 "Person" includes an individual and an entity.

189 "Principal office" means the office, in or out of the Commonwealth, where the principal executive offices
190 of a domestic or foreign corporation are located, or, if there are no such offices, the office, in or out of the
191 Commonwealth, so designated by the board of directors. The designation of the principal office in the most
192 recent annual report filed pursuant to § 13.1-936 shall be conclusive for purposes of this chapter.

193 "Private organic rules" means (i) the bylaws of a domestic or foreign corporation or domestic or foreign
194 stock corporation or (ii) the rules, regardless of whether in writing, that govern the internal affairs of an
195 unincorporated entity, are binding on all interest holders, and are not part of its public organic record.
196 Where private organic rules have been amended or restated, "private organic rules" means the private
197 organic rules as last amended or restated.

198 "Proceeding" includes civil suit and criminal, administrative and investigatory action conducted by a
199 governmental agency.

200 "Protected series" has the same meaning as specified in § 13.1-1002.

201 "Public organic record" means (i) the articles of incorporation of a domestic or foreign corporation or
202 domestic or foreign stock corporation or (ii) the document, the filing of which is required to create an
203 unincorporated entity. Where a public organic record has been amended or restated, the term means the
204 public organic record as last amended or restated.

205 "Right to vote" or "having voting rights" means the right to vote with respect to the matter at hand.

206 "Record date" means the date established under Article 7 (§ 13.1-837 et seq.) of this chapter on which a
207 corporation determines fixed for determining the identity of its the corporation's members and their
208 membership interests for purposes of this chapter. The determination shall be made as of the close of business
209 at the principal office of the corporation on the record date unless another time for doing so is specified when
210 the record date is fixed.

211 "Registered limited liability partnership" has the same meaning as specified in § 50-73.79.

212 "Secretary" means the corporate officer or other individual to whom the board of directors has delegated
213 responsibility under subsection C of § 13.1-872 for custody of the minutes of the meetings of the board of
214 directors and of the members and authenticating records of the corporation.

215 "Shares" has the same meaning as specified in § 13.1-603.

216 "Sign" or "signature" means, with present intent to authenticate or adopt a document: (i) to execute or
217 adopt a tangible symbol to a document, and includes any manual, facsimile, or conformed signature; or (ii) to
218 attach to or logically associate with an electronic transmission an electronic sound, symbol, or process, and
219 includes an electronic signature in an electronic transmission.

220 "State" when referring to a part of the United States, includes a state, commonwealth, and the District of
221 Columbia, and their agencies and governmental subdivisions; and a territory or insular possession, and their
222 agencies and governmental subdivisions, of the United States.

223 "Transact business" includes the conduct of affairs by any corporation that is not organized for profit.

224 "Unincorporated entity" or "domestic unincorporated entity" means a domestic partnership, limited
225 liability company, limited partnership, or business trust.

226 "United States" includes any district, authority, bureau, commission, department, or any other agency of
227 the United States.

228 "Voting group" means all members of one or more classes that under the articles of incorporation or this
229 chapter are entitled to vote and be counted together collectively on a matter at a meeting of members. All
230 members entitled by the articles of incorporation or this chapter to vote generally on the matter are for that
231 purpose a single voting group.

232 "Voting power" means the current power to vote in the election of directors.

233 "Writing" or "written" means any information in the form of a document.

234 **§ 13.1-804. Filing requirements.**

235 A. No document shall satisfy the requirements of this section, and of any other section that adds to or
236 varies these requirements, to be entitled to be filed with the Commission, under the provisions of this chapter
237 unless (i) it satisfies the requirements of this section and any other section that adds to or varies these
238 requirements and (ii)

239 B. The document shall be one that this Act chapter requires or permits it to be filed with the Commission.

240 C. The document shall contain the information required by this Act chapter. It may contain other
241 information as well.

242 D. The document shall be typewritten or printed or, if electronically transmitted, shall be in a format
243 that can be retrieved or reproduced in typewritten or printed form. The typewritten or printed portion shall be
244 in black. Photocopies, or other reproduced copies, of typewritten or printed documents may be filed. In every

245 case, information in the document shall be legible and the document shall be capable of being reformatted
 246 and reproduced in copies of archival quality.

247 **E. D.** The document shall be in the English language. A corporate name need not be in English if written
 248 in English letters or Arabic or Roman numerals. The articles of incorporation, duly authenticated by the
 249 official having custody of corporate records in the state or country under whose law the jurisdiction of
 250 formation of the foreign corporation is incorporated, which that are required of foreign corporations need not
 251 be in English if accompanied by a reasonably authenticated English translation.

252 **F. E.** The document shall be signed in the name of the domestic or foreign corporation:

253 1. By the chairman chair or any vice-chairman vice-chair of the board of directors, the president, or any
 254 other of its officers authorized to act on behalf of the corporation;

255 2. If directors have not been selected or the corporation has not been formed, by an incorporator; or

256 3. If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that
 257 fiduciary.

258 **G. F.** Any annual report required to be filed by § 13.1-936 shall be signed in the name of the corporation
 259 by an officer, director, or other person authorized by the corporation to sign the annual report, or, if the
 260 corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

261 **H. G.** The person signing executing the document shall sign it and state beneath or opposite his signature
 262 his name and the capacity in which he signs. Any signature may be a facsimile the document is signed. The
 263 document may but need not contain a corporate seal, attestation, acknowledgment, or verification.

264 **I. H.** If, pursuant to any provision of this Act chapter, the Commission has prescribed a mandatory form
 265 for the document, the document shall be in or on the prescribed form.

266 **J. I.** The document shall be delivered to the Commission for filing and shall be accompanied by the
 267 required correct filing fee, and any charter or entrance fee or, registration fee, or penalty required by this Act
 268 chapter.

269 **K. J.** The Commission may accept the electronic filing transmission of any document or other information
 270 required or permitted to be filed by this Act chapter and may prescribe the methods of execution, recording,
 271 reproduction, and certification of electronically filed transmitted information pursuant to § 59.1-496.

272 **L. K.** Whenever a provision of this Act chapter permits any of the terms of a plan or a filed document to
 273 be dependent on facts objectively ascertainable outside the plan or filed document, the following provisions
 274 apply:

275 1. The plan or filed document shall specify the nationally recognized news or information medium in
 276 which the facts may can be found or otherwise state the manner in which the facts can be objectively
 277 ascertained. The manner in which the facts will operate upon the terms of the plan or filed document shall be
 278 set forth in the plan or filed document.

279 2. The facts may include:

280 a. Any of the following that are available in a nationally recognized news or information medium either in
 281 print or electronically: statistical or market indices, market prices of any security or group of securities,
 282 interest rates, currency exchange rates, or similar economic or financial data;

283 b. A determination or action by any person or body, including the corporation or any other party to a plan
 284 or filed document; or

285 c. The terms of or actions taken under an agreement to which the corporation is a party, or any other
 286 agreement or document.

287 3. As used in this subsection:

288 a. "Filed document" means a document filed with the Commission under § 13.1-819 or Article 10
 289 (§ 13.1-884 et seq.) or 11 (§ 13.1-893.1 et seq.) of this Act, 11.1 (§ 13.1-898.1:1 et seq.), 11.2 (§ 13.1-898.8
 290 et seq.), or 13 (§ 13.1-902 et seq.); and

291 b. "Plan" means a plan of domestication, conversion, merger, or interest exchange.

292 4. The following terms of a plan or filed document may shall not be made dependent on facts outside the
 293 plan or filed document:

294 a. The name and address of any person required in a filed document;

295 b. A purpose that is required to be set forth in a filed document;

296 c. The registered office address of any entity required in a filed document;

297 d. The name or qualification of the registered agent of any entity required in a filed document;

298 e. The number of members and designation of each class of members;

299 f. The effective date of a filed document; and

300 g. Any required statement in a filed document of the date on which the underlying transaction was
 301 approved or the manner in which that approval was given.

302 5. If a term of a filed document is made dependent on a fact objectively ascertainable outside of the filed
 303 document and that fact is not objectively ascertainable by reference to a source described in subdivision 2a 2
 304 a or to a document that is a matter of public record, or if the affected members have not received nor has
 305 notice of the fact from been given by the corporation to the affected members, then the corporation shall file
 306 with the Commission articles of amendment setting forth the fact promptly after the time when the fact

307 referred to is first ~~objectively~~ ascertainable or thereafter changes. Articles of amendment under this
308 subdivision are deemed to be authorized by the authorization of the original filed document or plan to which
309 they relate and may be filed by the corporation without further action by the board of directors or the
310 members.

311 6. The provisions of subdivisions 1, 2, and 5 of ~~this subsection~~ shall not be considered by the Commission
312 in deciding whether the terms of a plan or filed document comply with the requirements of law.

313 **§ 13.1-804.1. Filing with the Commission pursuant to reorganization.**

314 A. Notwithstanding anything to the contrary contained in § 13.1-804, 13.1-819, 13.1-896, 13.1-898.4,
315 13.1-898.10, or 13.1-904, whenever, pursuant to any applicable statute of the United States relating to
316 reorganizations of corporations, a plan of reorganization of a corporation has been confirmed by the decree or
317 order of a court of competent jurisdiction, the corporation may, *put into effect and carry out the plan and*
318 *decrees of the court relative thereto (i) through one or more amendments to the corporation's articles of*
319 *incorporation containing terms and conditions permitted by this chapter; (ii) through a plan of merger,*
320 *interest exchange, domestication, or conversion; or (iii) through dissolution of its corporate existence*
321 *without action by the board of directors or members to carry out the plan of reorganization ordered or decreed*
322 *by such court of competent jurisdiction under federal statute; ~~put into effect and carry out the plan and~~*
323 *~~decrees of the court relative thereto (i) through an amendment or amendments to the corporation's articles of~~*
324 *~~incorporation containing terms and conditions permitted by this Act; (ii) through a plan of merger, or (iii)~~*
325 *through dissolution.*

326 B. The individual or individuals designated by the court shall file with the Commission articles of
327 amendment, merger, ~~or interest exchange, domestication, conversion, dissolution, or termination~~ which, in
328 addition to the matters otherwise required or permitted by law to be set forth therein, shall set forth:

- 329 1. The name of the corporation;
- 330 2. *The text of each Any provision relating to the articles of amendment, plan of merger, or interest*
exchange, domestication, conversion, dissolution, or termination approved by the court;
- 331 3. The *name of the court and the date of the court's order or decree approving the articles of amendment,*
plan of merger, or interest exchange, domestication, conversion, dissolution, or termination;
- 332 4. The *title and case number, if any, of the reorganization proceeding in which the order or decree was*
entered; and
- 333 5. A statement that the court had jurisdiction of the proceeding under federal statute.

334 C. If the Commission finds that the articles of amendment, merger, ~~or interest exchange, domestication,~~
335 ~~conversion, dissolution, or termination~~ comply with the requirements of law and that all required fees have
336 been paid, it shall issue a certificate of amendment, merger, ~~or interest exchange, domestication, conversion,~~
337 ~~dissolution, or termination of corporate existence.~~

338 D. This section does not apply after entry of a final decree in the reorganization proceeding even though
339 the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the
340 reorganization plan.

341 **§ 13.1-806. Effective time and date of document.**

342 A. Except as otherwise provided in § 13.1-807 and Article 1.1 (§ 13.1-814.2 *et seq.*), a certificate issued
343 by the Commission is effective at the time such certificate is issued, unless the certificate relates to articles
344 filed with the Commission and the articles state that the certificate shall become effective at a later time or
345 date specified in the articles. In that event the certificate shall become effective at the earlier of the time and
346 date so specified or 11:59 p.m. on the fifteenth day after the date on which the certificate is issued by the
347 Commission. If a delayed effective date is specified, but no time is specified, the effective time shall be 12:01
348 a.m. on the date specified. Any other document filed with the Commission shall be effective when accepted
349 for filing unless otherwise provided for in this chapter.

350 B. Notwithstanding subsection A, any certificate that has a delayed effective time or date shall not become
351 effective if, prior to the effective time and date, a statement of cancellation signed by each party to the articles
352 to which the certificate relates is delivered to the Commission for filing. If the Commission finds that the
353 statement of cancellation complies with the requirements of law, it shall, by order, cancel the certificate.

354 C. A statement of cancellation shall contain:

- 355 1. The name of the corporation;
- 356 2. The name of the articles and the date on which the articles were filed with the Commission;
- 357 3. The time and date on which the Commission's certificate becomes effective; and
- 358 4. A statement that the articles are being canceled in accordance with this section.

359 D. Notwithstanding subsection A, for purposes of §§ 13.1-829 and 13.1-924, any certificate that has a
360 delayed effective date shall be deemed to be effective when the certificate is issued.

361 E. For articles with a delayed effective date and time, the effective date and time shall be Eastern Time.

362 **§ 13.1-807. Correcting filed articles.**

363 A. Articles filed with the Commission may be corrected if (i) the articles contain an inaccuracy; (ii) the
364 articles were not properly authorized or defectively signed, attested, sealed, verified, or acknowledged; or (iii)
365 the electronic transmission of the articles to the Commission was defective.

369 B. Articles are corrected by filing with the Commission articles of correction that:

370 1. Set forth the name of the corporation prior to filing;

371 2. Describe the articles to be corrected, including their effective date;

372 3. Specify the inaccuracy or defect to be corrected;

373 4. Correct the inaccuracy or defect; and

374 5. State that the ~~board of directors~~ corporation authorized the correction and the date of such authorization.

375 C. If the Commission finds that the articles of correction comply with the requirements of law and that all required fees have been paid, it shall issue a certificate of correction. Upon the issuance of a certificate of correction by the Commission, the articles of correction shall become effective as of the effective date and time of the articles they correct except as to persons relying on the uncorrected articles and adversely affected by the correction. As to those persons, articles of correction are effective upon the issuance of the certificate of correction.

382 D. No articles of correction shall be accepted by the Commission when received more than 30 days after the effective date of the certificate relating to the articles to be corrected.

384 **§ 13.1-808. Evidentiary effect of copy of filed document.**

385 A certificate ~~attached to~~ delivered with a copy of any document admitted to the records of the Commission, bearing the signature of the clerk of the Commission or a member of the staff of the office of the clerk, which in either case may be in facsimile, and the seal of the Commission, which may be in facsimile, is conclusive evidence that the document has been admitted to the records of the Commission.

389 **§ 13.1-809. Certificate of good standing.**

390 A. Anyone may apply to the Commission to furnish a certificate of good standing for a domestic or foreign corporation.

392 B. The certificate of good standing shall state that the corporation is in good standing in the Commonwealth and shall set forth:

394 1. The domestic corporation's corporate name or the foreign corporation's corporate name and, if applicable, the designated name adopted for use in the Commonwealth;

396 2. That (i) the domestic corporation is duly incorporated under the law of the Commonwealth, the date of its incorporation, which is the original date of incorporation or formation of the domesticated or converted corporation if the corporation was domesticated from a foreign jurisdiction or was converted from a domestic or foreign eligible entity, and the period of its duration if less than perpetual or (ii) the foreign corporation is authorized to transact business in the Commonwealth; and

401 3. If requested, a list of all certificates relating to articles filed with the Commission that have been issued by the Commission with respect to such corporation and their respective effective dates.

403 C. A domestic corporation or a foreign corporation authorized to transact business in the Commonwealth shall be deemed to be in good standing if:

405 1. All fees, fines, penalties, and interest assessed, imposed, charged, or to be collected by the Commission pursuant to this chapter have been paid *except for any annual registration fee that is not due*;

407 2. An annual report required by § 13.1-936 has been delivered to and accepted by the Commission; and

408 3. No certificate of dissolution, certificate of withdrawal, or order of reinstatement prohibiting the domestic corporation from engaging in business until it changes its corporate name has been issued or such certificate or prohibition has not become effective or no longer is in effect.

411 D. The certificate may state any other facts of record in the office of the clerk of the Commission that may be requested by the applicant.

413 E. Subject to any qualification stated in the certificate, a certificate of good standing issued by the Commission may be relied upon as conclusive evidence that the domestic or foreign corporation is in good standing in the Commonwealth.

416 **§ 13.1-810. Notices and other communications.**

417 For purposes of this chapter, except for notice to or from the Commission:

418 A. ~~Notice~~ A notice shall be in writing except that oral notice of any meeting of the board of directors may be given if expressly authorized by the articles of incorporation or bylaws.

420 B. Unless otherwise agreed between the sender and the recipient, words in a notice or other communication *under this chapter* shall be in the English language. A notice or other communication *under this chapter* may be given or sent by any method of delivery except that an electronic transmission shall be in accordance with this section. If ~~these~~ the methods of delivery are impracticable, a notice or other communication may be communicated by publication in given by a broad non-exclusionary dissemination to the public, which may include a newspaper of general circulation in the area where the notice is intended to be given, or by radio, television, or other form of public communication in the area where notice is intended to be given or other methods of distribution that the corporation has previously identified to its members, including posting on the corporation's website.

429 C. ~~Notice~~ A notice or other communication to a domestic or foreign corporation, authorized to transact business in the Commonwealth, may be delivered to its the corporation's registered agent at its registered

431 office or to the secretary of ~~at the corporation at its corporation's~~ principal office shown in its most recent
432 annual report or, in the case of a foreign corporation that has not yet delivered an annual report, in its
433 application for a certificate of authority.

434 D. ~~Notice~~ A notice or other communication may be delivered by electronic transmission if consented to by
435 the recipient or if otherwise authorized by subsection K.

436 E. Any consent under subsection D may be revoked by the person who consented by written or electronic
437 notice to the person to whom the consent was delivered. Any such consent is deemed revoked if (i) the
438 corporation is unable to deliver two consecutive electronic transmissions given by the corporation in
439 accordance with such consent and (ii) such inability becomes known to the secretary or an assistant secretary
440 of the corporation or other person responsible for the giving of notice or other communications. ~~The~~
441 however, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or
442 other action.

443 F. Unless otherwise agreed between the sender and the recipient, an electronic transmission is received
444 when:

445 1. It enters an information processing system that the recipient has designated or uses for the purpose of
446 receiving electronic transmissions or information of the type sent, and from which the recipient is able to
447 retrieve the electronic transmission; and

448 2. It is in a form capable of being processed by that system.

449 G. Receipt of an electronic acknowledgment from an information processing system described in
450 subdivision F 1 establishes that an electronic transmission was received. However, such receipt of an
451 electronic acknowledgment, by itself, does not establish that the content sent corresponds to the content
452 received.

453 H. An electronic transmission is received under this section even if no individual is aware of its receipt.

454 I. ~~Notice~~ A notice or other communication, if in a comprehensible form or manner, is effective at the
455 earliest of the following:

456 1. If in physical form, the earliest of when it is actually received or when it is left at:

457 a. A member's address shown on the corporation's record of members maintained by the corporation
458 pursuant to subsection C of § 13.1-932;

459 b. A director's residence or usual place of business;

460 c. The corporation's principal ~~place of business~~ office; or

461 d. The corporation's registered office when left with the corporation's registered agent;

462 2. If mailed postage prepaid and correctly addressed to a member, upon deposit in the United States mail;

463 3. If mailed by United States mail postage prepaid and correctly addressed to a recipient other than a
464 member, the earliest of when it is actually received or: (i) if sent by registered or certified mail return receipt
465 requested, the date shown on the *return* receipt, signed by or on behalf of the addressee; or (ii) five days after
466 it is deposited in the *United States* mail;

467 4. If an electronic transmission, when it is received as provided in subsection F; and

468 5. If oral, when communicated.

469 J. A notice or other communication may be in the form of an electronic transmission that cannot be
470 directly reproduced in paper form by the recipient through an automated process used in conventional
471 commercial practice only if (i) the electronic transmission is otherwise retrievable in perceivable form and (ii)
472 the sender and the recipient have consented in writing to the use of such form of electronic transmission.

473 K. If this chapter prescribes requirements for notices or other communications in particular circumstances,
474 those requirements govern. If articles of incorporation or bylaws prescribe requirements for notices or other
475 communications not inconsistent with this section or other provisions of this chapter, those requirements
476 govern. The articles of incorporation or bylaws may authorize or require delivery of notices of meetings of
477 directors by electronic transmission.

478 L. *If any provisions of this chapter are deemed to modify, limit, or supersede the federal Electronic
479 Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., the provisions of this chapter
480 shall control to the maximum extent permitted by § 102(a)2 or any successor provision of such federal act.*

481 M. *Whenever notice would otherwise be required to be given under any provision of this chapter to a
482 member, the notice is not required to be given to such member if the notices of two consecutive annual
483 meetings, and all notices of meetings during the period between two such consecutive annual meetings, have
484 been sent, other than by electronic transmission, to such member at such member's address as shown on the
485 records of the corporation and have been returned undeliverable or could not be delivered. If any such
486 member delivers to the corporation a written notice setting forth such member's then-current address, the
487 requirement that notice be given shall be reinstated.*

488 § 13.1-810.1. Number of members.

489 A. For purposes of this ~~Act~~ chapter, the following identified as a member in a corporation's current record
490 of members constitutes one member:

- 491 1. Two or more persons who together have a single membership interest in the corporation;
- 492 2. A corporation, limited liability company, partnership, limited partnership, business trust, trust, estate, or

493 other entity; or

494 3. The trustees, guardians, custodians, or other fiduciaries of a single trust, estate, or account.

495 B. For purposes of this *Act chapter*, membership interests registered in substantially similar names
496 constitute one member if it is reasonable to believe that the names represent the same person.

497 **§ 13.1-811. Penalty for signing false documents.**

498 A. It shall be unlawful for any person to sign a document ~~which he~~ *that the person* knows is false in any
499 material respect with intent that the document be delivered to the Commission for filing.

500 B. Anyone who violates the provisions of this section shall be guilty of a Class 1 misdemeanor.

501 **§ 13.1-813. Hearing and finality of Commission action; injunctions.**

502 A. The Commission shall have no power to grant a hearing with respect to any certificate issued by the
503 Commission with respect to any articles filed with the Commission except on a petition by a member or
504 director, filed with the Commission and *delivered to* the corporation within 30 days after the effective date of
505 the certificate, in which the member or director asserts that the certification of corporate action contained in
506 the articles contains a misstatement of a material fact as to compliance with statutory requirements,
507 specifying the particulars thereof. After hearing, on notice in writing to the corporation and the member or
508 director, the Commission shall determine the issues and revoke or refuse to revoke its order accordingly.

509 B. No court ~~within or without~~ *in or outside* of the Commonwealth shall have jurisdiction to enjoin or
510 delay the holding of any meeting of directors or members for the purpose of authorizing or consummating
511 any amendment, *correction*, merger, *interest exchange*, domestication, *conversion*, *dissolution*, or termination
512 of corporate existence, or the execution or filing with the Commission of any articles or other documents for
513 such purpose, except pursuant to subsection D of § 13.1-845 or for fraud. No court ~~within or without~~ *in or*
514 *outside* of the Commonwealth, except the Supreme Court by way of appeal as authorized by law, shall have
515 jurisdiction to review, reverse, correct or annul any action of the Commission, within the scope of its
516 authority, with regard to any articles, certificate, order, objection or petition, or to suspend or delay the
517 execution or operation thereof, or to enjoin, restrain or interfere with the Commission in the performance of
518 its official duties.

519 C. Notwithstanding any provision of subsection A to the contrary, the Commission shall have the power
520 to act upon *articles of correction* filed by the corporation pursuant to § 13.1-807 or a petition filed by a the
521 corporation at any time to correct Commission records so as to eliminate the effects of clerical errors and of
522 filings made by a person or persons without authority to act for the corporation, or ~~of its~~ *on the Commission's*
523 own motion to correct Commission records so as to eliminate the effects of clerical errors committed by its
524 staff.

525 **§ 13.1-814. Shares of stock and dividends prohibited.**

526 A corporation shall not issue shares of stock. ~~No~~ *Except as provided in subsection E of § 13.1-837, no*
527 dividend shall be paid and no part of the income of a corporation shall be distributed to its members,
528 directors, or officers; ~~except that a corporation may make distributions to another nonprofit corporation that is~~
529 ~~a member of such corporation or has the power to appoint one or more of its directors.~~ A corporation may pay
530 compensation in a reasonable amount to its members, directors, or officers for services rendered, including
531 pensions, may confer benefits upon its members in conformity with its purposes, and may make distributions
532 to its members or others as permitted by this *Act chapter* upon dissolution or final liquidation and no such
533 payment, benefit or distribution shall be deemed to be a dividend or a distribution of income.

534 **§ 13.1-814.1. Special provisions for community associations.**

535 A. As used in this section, "community association" shall mean a corporation incorporated under this
536 chapter or under former Chapter 2 of this title which owns or has under its care, custody or control real estate
537 subject to a recorded declaration of covenants which obligates a person, by virtue of ownership of specific
538 real estate, to be a member of the corporation.

539 B. ~~Notwithstanding the requirements of §§ 13.1-851, 13.1-852, 13.1-855, 13.1-856, 13.1-857, 13.1-858~~
540 ~~and 13.1-862, the provisions set forth in those sections need not be set forth in the articles of incorporation of~~
541 ~~a community association and shall be effective if set forth in the bylaws.~~

542 C. Notwithstanding the provisions of §§ 13.1-855, 13.1-856, 13.1-892 and 13.1-899, the provisions of the
543 bylaws of any community association in existence on or before January 1, 1986, shall continue to govern (i)
544 the procedures for and election of ~~members of the board~~ of directors, (ii) the amendment of the bylaws, (iii)
545 the sale, release, exchange or disposition of all or substantially all of the corporation's property, whether or
546 not in the usual and regular course of business, and (iv) the corporation's ability to mortgage, pledge, or
547 dedicate to repayment of indebtedness, or otherwise encumber its property; provided, that the community
548 association may, in accordance with its current articles of incorporation and bylaws, vote to amend its
549 corporate documents to become subject to §§ 13.1-855, 13.1-856, 13.1-892 and 13.1-899.

550 *Article 1.1.*

551 *Ratification of Defective Corporate Actions.*

552 **§ 13.1-814.2. Definitions.**

553 As used in this article, unless the context requires a different meaning:

554 "Corporate action" means any action taken by or on behalf of the corporation, including any action taken

555 by the incorporator, the board of directors, a committee, an officer, or an agent of the corporation, or the
556 members.

557 "Date of the defective corporate action" means the date, or the approximate date if the exact date is
558 unknown, the defective corporate action was purported to have been taken.

559 "Defective corporate action" means any corporate action purportedly taken that is, and at the time such
560 corporate action was purportedly taken would have been, within the power of the corporation, but is void or
561 voidable due to a failure of authorization.

562 "Failure of authorization" means the failure to authorize, approve, or otherwise effect a corporate action
563 in compliance with the provisions of this chapter, the articles of incorporation or bylaws, a corporate
564 resolution, or any plan or agreement to which the corporation is a party, if and to the extent such failure
565 would render such corporate action voidable.

566 "Validation effective time" with respect to any defective corporate action ratified under this article means
567 the later of:

568 1. The time at which the ratification of the defective corporate action is approved by the members or, if
569 approval of members is not required, the time at which the notice required by § 13.1-814.6 becomes effective
570 in accordance with § 13.1-810; and

571 2. The time at which any document filed in accordance with § 13.1-814.8 becomes effective.

572 The validation effective time shall not be affected by the filing or pendency of a proceeding under
573 § 13.1-814.9 or otherwise, unless ordered by the Commission.

574 **§ 13.1-814.3. Defective corporate actions.**

575 A. No defective corporate action shall be void or voidable if ratified in accordance with § 13.1-814.4 or
576 validated in accordance with § 13.1-814.9.

577 B. Ratification under § 13.1-814.4 or validation under § 13.1-814.9 shall not be deemed to be the
578 exclusive means of ratifying or validating any defective corporate action, and the absence or failure of
579 ratification in accordance with this article shall not, of itself, affect the validity or effectiveness of any
580 corporate action properly ratified under this chapter, common law, or otherwise, nor shall it create a
581 presumption that any such corporate action is or was a defective corporate action or void or voidable.

582 **§ 13.1-814.4. Ratification of defective corporate actions.**

583 A. To ratify a defective corporate action under this section, other than the ratification of an election of the
584 initial board of directors under subsection B, the board of directors shall adopt resolutions ratifying the
585 action in accordance with § 13.1-814.5, stating:

586 1. The defective corporate action to be ratified;

587 2. The date of the defective corporate action;

588 3. The nature of the failure of authorization with respect to the defective corporate action to be ratified;
589 and

590 4. That the board of directors approves the ratification of the defective corporate action.

591 B. In the event that a defective corporate action to be ratified relates to the election of the initial board of
592 directors of the corporation under subdivision A 2 of § 13.1-822, a majority of the persons who, at the time of
593 the ratification, are exercising the powers of directors may take an action stating:

594 1. The name of the person or persons who first took action in the name of the corporation as the initial
595 board of directors of the corporation;

596 2. The earlier of the date on which such persons first took such action or were purported to have been
597 elected as the initial board of directors; and

598 3. That the ratification of the election of such person or persons as the initial board of directors is
599 approved.

600 C. If any provision of this chapter, the articles of incorporation or bylaws, any corporate resolution, or
601 any plan or agreement to which the corporation is a party in effect at the time action under subsection A is
602 taken requires member approval or would have required member approval at the date of the occurrence of
603 the defective corporate action, the ratification of defective corporate action approved in the action taken by
604 the directors under subsection A shall be submitted to the members for approval in accordance with
605 § 13.1-814.5.

606 D. Unless otherwise provided in the action taken by the board of directors under subsection A, after the
607 action by the board of directors has been taken and, if required, approved by the members, the board of
608 directors may abandon the ratification at any time before the validation effective time without further action
609 of the members.

610 **§ 13.1-814.5. Action of ratification.**

611 A. The quorum and voting requirements applicable to a ratifying action by the board of directors under
612 subsection A of § 13.1-814.4 shall be the quorum and voting requirements applicable to the corporate action
613 proposed to be ratified at the time such ratifying action is taken.

614 B. If the ratification of the defective corporate action requires approval by the members under subsection
615 C of § 13.1-814.4, and if the approval is to be given at a meeting, the corporation shall notify each member
616 as of the record date for notice of the meeting and as of the date of the occurrence of defective corporate

617 action, provided that notice shall not be required to be given to members whose identities or addresses for
 618 notice cannot be determined from the records of the corporation. The notice shall state that the purpose, or
 619 one of the purposes, of the meeting, is to consider ratification of a defective corporate action and shall be
 620 accompanied by (i) either a copy of the action taken by the board of directors in accordance with subsection
 621 A of § 13.1-814.4 or the information required by subdivisions A 1 through 4 of § 13.1-814.4 and (ii) a
 622 statement that any claim that the ratification of such defective corporate action should not be effective, or
 623 should be effective only on certain conditions, shall be brought within 120 days from the applicable
 624 validation effective time.

625 C. Except as provided in subsection D with respect to the voting requirements to ratify the election of a
 626 director, the quorum and voting requirements applicable to the approval by the members required by
 627 subsection C of § 13.1-814.4 shall be the quorum and voting requirements applicable to the corporate action
 628 proposed to be ratified at the time of such member approval.

629 D. The approval by members to ratify the election of a director requires that the votes cast within the
 630 voting group favoring such ratification exceed the votes cast opposing such ratification of the election at a
 631 meeting at which a quorum is present.

632 **§ 13.1-814.6. Notice.**

633 A. Unless member approval is required under subsection C of § 13.1-814.4, prompt notice of an action
 634 taken under § 13.1-814.4 shall be given to each member, regardless of whether entitled to vote, as of (i) the
 635 date of such action by the board of directors and (ii) the date of the defective corporate action ratified,
 636 provided that notice shall not be required to be given to members whose identities or addresses for notice
 637 cannot be determined from the records of the corporation.

638 B. The notice shall contain (i) either a copy of the action taken by the board of directors in accordance
 639 with subsection A or B of § 13.1-814.4 or the information required by subdivisions A 1 through 4 or B 1, 2,
 640 and 3 of § 13.1-814.4, as applicable, and (ii) a statement that any claim that the ratification of the defective
 641 corporate action should not be effective, or should be effective only on certain conditions, shall be brought
 642 within 120 days from the applicable validation effective time.

643 C. No notice under this section is required with respect to any action required to be submitted to members
 644 for approval under subsection C of § 13.1-814.4 if notice is given in accordance with § 13.1-814.5.

645 D. A notice required by this section may be given in any manner permitted by § 13.1-810.

646 **§ 13.1-814.7. Effect of ratification.**

647 From and after the validation effective time, and without regard to the 120-day period during which a
 648 claim may be brought under § 13.1-814.9:

649 1. Each defective corporate action ratified in accordance with § 13.1-814.4 shall not be void or voidable
 650 as a result of the failure of authorization identified in the action taken under subsection A or B of
 651 § 13.1-814.4 and shall be deemed a valid corporate action effective as of the date of the defective corporate
 652 action; and

653 2. Any corporate action taken subsequent to the defective corporate action ratified in accordance with this
 654 article in reliance on such defective corporate action having been validly effected and any subsequent
 655 defective corporate action resulting directly or indirectly from such original defective corporate action shall
 656 be valid as of the time taken.

657 **§ 13.1-814.8. Filings.**

658 A. After a defective corporate action is ratified under this article for a document required by this chapter
 659 to be filed with the Commission, the corporation shall deliver to the Commission for filing:

660 1. If a filing with the Commission was previously made with respect to such defective corporate action
 661 and the Commission issued with respect thereto a certificate, the articles of ratification, which may serve to
 662 amend or substitute for the filing previously made; or

663 2. If no filing with the Commission was previously made with respect to such defective corporate action,
 664 the articles required by this chapter.

665 B. The document required by subsection A shall set forth:

666 1. The defective corporate action that is the subject of the filed document;

667 2. The date of the defective corporate action;

668 3. The nature of the failure of authorization in respect of the defective corporate action;

669 4. A statement that the defective corporate action was ratified in accordance with § 13.1-814.4, including
 670 the date on which the board of directors ratified such defective corporate action and the date, if any, on
 671 which the members approved the ratification of such defective corporate action; and

672 5. The information required by subsection C.

673 C. The document shall also contain the following information:

674 1. If a filing with the Commission was previously made in respect of the defective corporate action and no
 675 changes to such filing are required to give effect to the ratification of such defective corporate action in
 676 accordance with § 13.1-814.4, the filed document shall set forth (i) the name, title, and filing date of the filing
 677 previously made and any articles of correction to that filing and (ii) a statement that a copy of the filing
 678 previously made, together with any articles of correction to that filing, is attached as an exhibit;

679 2. If a filing was previously made in respect of the defective corporate action and such filing requires any
680 change to give effect to the ratification of such defective corporate action in accordance with § 13.1-814.4,
681 the filed document shall set forth (i) the name, title, and filing date of the filing previously made and any
682 articles of correction to that filing; (ii) a statement that a filing containing all of the information required to
683 be included under the applicable sections of this chapter to give effect to such defective corporate action is
684 attached as an exhibit; and (iii) the date and time that such filing is deemed to have become effective; or

685 3. If a filing was not previously made in respect of the defective corporate action and the defective
686 corporate action ratified under § 13.1-814.4 would have required a filing under any other section of this
687 chapter, the filed document shall set forth (i) a statement that a filing containing all of the information
688 required to be included under the applicable sections of this chapter to give effect to such defective corporate
689 action is attached as an exhibit and (ii) the date and time that such filing is deemed to have become effective.

690 D. If the Commission finds that the filed document complies with the requirements of law and that all
691 required fees have been paid, it shall issue a certificate of ratification of defective corporate action.

692 **§ 13.1-814.9. Commission proceedings regarding validity of corporate actions.**

693 A. Upon application by the corporation, any successor entity to the corporation, a director of the
694 corporation, any member of the corporation, including any such member as of the date of the defective
695 corporate action ratified under § 13.1-814.4, or any other person claiming to be substantially and adversely
696 affected by a ratification under § 13.1-814.4, the Commission may:

- 697 1. Determine the validity and effectiveness of any corporate action or defective corporate action;
- 698 2. Determine the validity and effectiveness of any ratification under § 13.1-814.4; and
- 699 3. Modify or waive any of the procedures specified in § 13.1-814.4 or 13.1-814.5 to ratify a defective
700 corporate action.

701 B. In connection with an action under this section, the Commission may make such findings or orders and
702 take into account any factors or considerations regarding such matters as it deems proper under the
703 circumstances.

704 C. Service of process of the application under subsection A on the corporation may be made in any
705 manner provided by statutes of the Commonwealth or by rule of the Commission for service on the
706 corporation, and no other party need be joined in order for the Commission to adjudicate the matter. In an
707 action filed by the corporation, the Commission may require that notice of the action be provided to other
708 persons specified by the Commission and permit such other persons to intervene in the action.

709 D. Notwithstanding any other provision of this section or otherwise under applicable law, any action
710 asserting that the ratification of any defective corporate action should not be effective, or should be effective
711 only on certain conditions, shall be brought in a petition filed within 120 days of the validation effective time.

712 **§ 13.1-815. Fees to be collected by Commission; application of payment; payment of fees
713 prerequisite to Commission action; exceptions.**

714 A. The Commission shall assess the registration fees and shall charge and collect the filing fees, charter
715 fees and entrance fees imposed by law. The Commission shall have authority to certify to the Comptroller
716 directing refund of any overpayment of a fee, or of any fee collected for a document that is not accepted for
717 filing, at any time within one year from the date of its payment. When the Commission receives payment of
718 an annual registration fee assessed against a domestic or foreign corporation, such payment shall be applied
719 against any unpaid annual registration fees previously assessed against such corporation, including any
720 penalties incurred thereon, beginning with the assessment or penalty that has remained unpaid for the longest
721 period of time.

722 B. The Commission shall not file or issue with respect to any domestic or foreign corporation any
723 document or certificate specified in this chapter, except the annual report required by § 13.1-936, a statement
724 of change pursuant to § 13.1-834 or 13.1-926, and a statement of resignation pursuant to § 13.1-835 or
725 13.1-927, until all fees, charges, fines, penalties, and interest assessed, imposed, charged, or to be collected
726 by the Commission pursuant to this chapter or Title 12.1 have been paid by or on behalf of such corporation.
727 Notwithstanding the foregoing, the Commission may file or issue any document or certificate with respect to
728 a domestic or foreign corporation that has been assessed an annual registration fee if the document or
729 certificate is filed or issued with an effective date that is on or before the due date of the corporation's annual
730 registration fee payment in any year, provided that the Commission shall not issue a certificate of
731 domestication with respect to a foreign corporation, a certificate of conversion with respect to a foreign
732 eligible entity, or a certificate of entity conversion with respect to a domestic corporation that will become a
733 domestic eligible entity until the annual registration fee has been paid by or on behalf of that corporation or
734 eligible entity.

735 C. A domestic or foreign corporation shall not be required to pay the annual registration fee assessed
736 against it pursuant to subsection B of § 13.1-936.1 in any year if (i) the Commission issues or files any of the
737 following types of certificate or instrument and (ii) the certificate or instrument is effective on or before the
738 annual registration fee due date:

- 739 1. A certificate of termination of corporate existence or, a certificate of incorporation surrender
740 domestication for a domestic corporation, or a certificate of conversion for a domestic corporation that will

741 become a foreign eligible entity;

742 2. A certificate of withdrawal for a foreign corporation;

743 3. A certificate of merger or an authenticated copy of an instrument of merger for a domestic or foreign
744 corporation that has merged into a surviving domestic corporation or eligible entity, or into a surviving
745 foreign corporation or eligible entity; or

746 4. An authenticated copy of an instrument of ~~entity~~ conversion for a foreign corporation that has
747 converted to a different entity type.

748 The Commission shall cancel the annual registration fee assessments specified in this subsection that
749 remain unpaid.

750 D. Annual registration fee assessments that have been paid shall not be refunded.

751 **§ 13.1-815.1. Charter and entrance fees for corporations.**

752 A. Every domestic corporation, upon the granting of its charter or upon *its incorporation* by domestication
753 or conversion, shall pay a charter fee in the amount of \$50 into the state treasury, and every foreign
754 corporation shall pay an entrance fee of \$50 into the state treasury for its certificate of authority to transact
755 business in the Commonwealth.

756 B. For any foreign corporation that files articles of domestication and that had authority to transact
757 business in the Commonwealth at the time of such filing, the charter fee to be charged upon domestication
758 shall be an amount equal to the difference between the amount that would be required by this section and the
759 amount already paid as an entrance fee by such corporation.

760 C. For any domestic stock corporation that files articles of conversion to become a domestic corporation,
761 the charter fee to be charged shall be an amount equal to the difference between the amount already paid as a
762 charter fee by the domestic stock corporation and the amount that would be required by this section to be
763 paid.

764 D. *If no charter or entrance fee has been previously paid to the Commission, the amount to be paid shall
765 be the same as would have to be paid on original incorporation or application for authority to transact
766 business in the Commonwealth.*

767 **§ 13.1-816. Fees for filing documents or issuing certificates.**

768 The Commission shall charge and collect the following fees, except as provided in § 12.1-21.2:

769 1. For the filing of articles of ~~entity~~ conversion to convert a corporation to a ~~limited liability company~~ an
770 eligible entity, the fee shall be \$100.

771 2. For filing any one of the following, the fee shall be \$25:

772 a. Articles of incorporation; or domestication; or incorporation surrender.

773 b. Articles of conversion to convert an eligible entity into a corporation.

774 c. Articles of amendment or restatement.

775 d. Articles of merger.

776 e. Articles of correction.

777 f. Articles of ratification.

778 e. g. An application of a foreign corporation for a certificate of authority to transact business in the
779 Commonwealth.

780 f. h. An application of a foreign corporation for an amended certificate of authority to transact business in
781 the Commonwealth.

782 g. i. A copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate
783 of authority to transact business in the Commonwealth.

784 h. j. A copy of articles of merger of a foreign corporation holding a certificate of authority to transact
785 business in the Commonwealth.

786 i. k. A copy of an instrument of ~~entity~~ conversion of a foreign corporation holding a certificate of authority
787 to transact business in the Commonwealth.

788 j. l. An application to register or to renew the registration of a corporate name.

789 3. For filing any one of the following, the fee shall be \$10:

790 a. An application to reserve or to renew the reservation of a corporate name.

791 b. A notice of transfer of a reserved corporate name.

792 c. An application for use of an indistinguishable name.

793 d. Articles of dissolution.

794 e. Articles of revocation of dissolution.

795 f. Articles of termination of corporate existence.

796 g. An application for a certificate of withdrawal of a foreign corporation.

797 h. A notice of release of a registered name.

798 4. For issuing a certificate pursuant to § 13.1-945, the fee shall be \$6.

799 **§ 13.1-819. Articles of incorporation.**

800 A. The articles of incorporation shall set forth:

801 1. A corporate name for the corporation that satisfies the requirements of § 13.1-829.

802 2. ~~If~~ Whether the corporation is to will or will not have no members; a statement to that effect.

803 3. If the corporation is to have one or more classes of members, any provision which the incorporators
804 elect to set forth in the articles of incorporation ~~or, if the articles of incorporation so provide, in the bylaws~~
805 designating the class or classes of members, stating the qualifications and rights of the members of each class
806 and conferring, limiting or denying the right to vote.

807 4. If the directors or any of them are not to be elected or appointed by one or more classes of members, a
808 statement of the manner in which such directors shall be elected or appointed; ~~and a designation of ex officio~~
809 ~~directors, if any.~~

810 5. The address of the corporation's initial registered office (including both (i) the post-office address with
811 street and number, if any, and (ii) the name of the city or county in which it is located), and the name of its
812 initial registered agent at that office, and that the agent is either (i) an individual who is a resident of Virginia
813 and either a director of the corporation or a member of the Virginia State Bar or (ii) a domestic or foreign
814 stock or nonstock corporation, limited liability company or registered limited liability partnership authorized
815 to transact business in the Commonwealth.

816 B. The articles of incorporation may set forth:

817 1. The names and addresses of the individuals who are to serve as the initial directors;

818 2. Provisions not inconsistent with law *regarding*:

819 a. *Stating the* The purpose or purposes for which the corporation is organized;

820 b. *Regarding the* The management of the business and regulation of the affairs of the corporation;

821 c. Defining, limiting and regulating the powers of the corporation, its *board of* directors, and its members;
822 ~~and~~

823 d. *The distribution of assets on dissolution*;

824 e. Any provision that under this *Act chapter* is required or permitted to be set forth in the bylaws; *and*

825 f. *A provision limiting or eliminating any duty of a director, officer, or any other person to offer the*
826 *corporation the right to have or participate in any, or one or more classes or categories of, business*
827 *opportunities, before the pursuit of or taking of the opportunity by the director, officer, or other person.*

828 C. The articles of incorporation need not set forth any of the corporate powers enumerated in this *Act*
829 *chapter.*

830 D. Provisions of the articles of incorporation may be made dependent upon facts objectively ascertainable
831 outside the articles of incorporation in accordance with subsection L K of § 13.1-804.

832 E. ~~Except as provided in subsection A of § 13.1-855, whenever a provision of the articles of incorporation~~
833 ~~is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling.~~

834 **§ 13.1-820. Issuance of certificate of incorporation.**

835 If the Commission finds that the articles of incorporation comply with the requirements of law and that all
836 required fees have been paid, it shall issue a certificate of incorporation.

837 When the certificate of incorporation is effective, the corporate existence shall begin. Upon becoming
838 effective, the certificate of incorporation shall be conclusive evidence that all conditions precedent required to
839 be performed by the incorporators have been complied with and that the corporation has been incorporated
840 under this *Act chapter*.

841 **§ 13.1-821. Liability for preincorporation transactions.**

842 All persons purporting to act as or on behalf of a corporation, ~~but~~ knowing there was no incorporation
843 under this chapter, are jointly and severally liable for all liabilities created while so acting except for any
844 liability to any person who also knew that there was no incorporation.

845 **§ 13.1-822. Organization of corporation.**

846 A. After incorporation:

847 1. If initial directors are named in the articles of incorporation, the initial directors shall hold an
848 organizational meeting, at the call of a majority of the directors, to complete the organization of the
849 corporation by adopting bylaws, appointing officers, and carrying on any other business brought before the
850 meeting or

851 2. If initial directors are not named in the articles of incorporation, the incorporator or incorporators shall
852 hold an organizational meeting at the call of a majority of the incorporators:

853 a. To elect a board of directors and complete the organization of the corporation; or
854 b. To elect a *board of* directors who shall complete the organization of the corporation.

855 B. Action required or permitted by this *Act chapter* to be taken by incorporators *or the initial directors* at
856 an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more
857 written consents describing the action taken and signed by each incorporator *or initial director*.

858 C. An organizational meeting may be held in or out of the Commonwealth.

859 **§ 13.1-823. Bylaws.**

860 A. The incorporators or board of directors of a corporation shall adopt initial bylaws for the corporation.

861 B. The bylaws of a corporation may contain any provision that is not ~~inconsistent in conflict~~ with law or,
862 unless the articles of incorporation provide otherwise, the articles of incorporation.

863 C. *If the corporation is to have one or more classes of members, the bylaws may contain any provision*
864 *designating the classes of members, stating the rights and qualification of the members of each class and*

865 conferring, limiting, or denying the right to vote.

866 D. The bylaws may contain a requirement that any or all internal corporate claims shall be brought
 867 exclusively in a circuit court or a federal district court in the Commonwealth, and if so specified, in any
 868 additional courts in the Commonwealth or any other jurisdiction in which the corporation maintains its
 869 principal office. As used in this section, "internal corporate claims" means (i) any derivative action or
 870 proceeding brought on behalf of the corporation; (ii) any action for breach of duty to the corporation or the
 871 corporation's members by any current or former officer, director, or member of the corporation; (iii) any
 872 action asserting a claim arising pursuant to this chapter or the corporation's articles of incorporation or
 873 bylaws; or (iv) any action asserting a claim governed by the internal affairs doctrine that is not included in
 874 clause (i), (ii), or (iii). Notwithstanding any other provision of this chapter, to the extent any provision of this
 875 chapter allows or requires an action or proceeding to be brought in the circuit court of the county or city
 876 where the corporation's principal office or registered office is located or in any other specified court
 877 location, such action or proceeding shall be brought instead in a court in the Commonwealth specified in a
 878 provision of the bylaws, if any, authorized by this subsection and adopted prior to the commencement of such
 879 action or proceeding.

880 E. No provision of the bylaws authorized by subsection D shall have the effect of conferring jurisdiction
 881 on any court or over any person or claim and no such provision shall apply if none of the courts specified by
 882 such provision have the requisite personal and subject matter jurisdiction. If the court specified in such
 883 provision does not have such jurisdiction and another court in the Commonwealth does have such
 884 jurisdiction, then the internal corporate claim may be brought in such court in the Commonwealth or in or
 885 any other court with the requisite jurisdiction specified in the provision. No provision of the articles of
 886 incorporation or bylaws shall prohibit bringing an internal corporate claim in the courts of the
 887 Commonwealth or require any such claim to be determined by arbitration.

888 **§ 13.1-824. Emergency bylaws.**

889 A. Unless the articles of incorporation provide otherwise, the board of directors of a corporation may
 890 adopt bylaws to be effective only in an emergency defined in subsection D. The emergency bylaws, which
 891 are subject to amendment or repeal by the members, may make all provisions necessary for managing the
 892 corporation during the emergency, including provisions that may be inconsistent with one or more provisions
 893 of this chapter with respect to:

- 894 1. Procedures for calling a meeting of the board of directors;
- 895 2. Quorum requirements for the meeting; and
- 896 3. Designation of additional or substitute directors.

897 B. All provisions of the regular bylaws ~~consistent~~ not inconsistent with the emergency bylaws remain
 898 effective during the emergency. The emergency bylaws are not effective after the emergency ends.

899 C. Corporate action taken in good faith in accordance with the emergency bylaws:

- 900 1. Binds the corporation; and
- 901 2. ~~May~~ Shall not be used to impose liability on a ~~corporate~~ director, officer, employee, or agent of the
 902 corporation.

903 D. An emergency exists for purposes of this section and § 13.1-827 if there is a catastrophic event,
 904 including an attack on the United States or in any locality in which the corporation conducts its business or
 905 ordinarily holds meetings of the board of directors or members, an epidemic or pandemic, or a declaration of
 906 a national emergency by the United States government or an emergency by the locality in which the
 907 corporation's principal office is located, that affects the corporation and regardless of whether a quorum of
 908 the corporation's board of directors ~~cannot~~ or a committee can be readily be assembled because of some
 909 catastrophic event convened for action.

910 **§ 13.1-825. Purposes.**

911 Every corporation incorporated under this ~~Act~~ chapter has the purpose of engaging in any lawful activity,
 912 unless:

- 913 1. A statute requires the corporation to issue shares or one of the purposes of the corporation is to conduct
 914 the business of a public service company other than a sewer company; or
- 915 2. A more limited purpose is (i) set forth in the articles of incorporation or (ii) required to be set forth in
 916 the articles of incorporation by any other law of the Commonwealth.

917 **§ 13.1-826. General powers.**

918 A. Unless its articles of incorporation provide otherwise, every corporation has perpetual duration and
 919 succession in its corporate name and has the same powers as an individual to do all things necessary or
 920 convenient to carry out its business and affairs, including, without limitation, power:

- 921 1. To sue and be sued, complain and defend, in its corporate name;
- 922 2. To have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing
 923 or affixing it or in any other manner reproducing it;
- 924 3. To purchase, receive, lease, or otherwise acquire, and own, hold, improve, use and otherwise deal with,
 925 real or personal property, or any legal or equitable interest in property, wherever located;
- 926 4. To sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its

927 property;

928 5. To purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend,
929 pledge, or otherwise dispose of, and deal *in and* with shares or other interests in, or obligations of, any other
930 entity;

931 6. To make contracts and guarantees, incur liabilities, borrow money, and issue its notes, bonds, and other
932 obligations, which may be convertible into, or include the option to purchase, other securities or property of
933 the corporation, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or
934 income;

935 7. To lend money, invest and reinvest its funds, and receive and hold real and personal property as
936 security for repayment;

937 8. To transact its business, locate offices, and exercise the powers granted by this chapter ~~within or~~
938 ~~without~~ *in or outside* of the Commonwealth;

939 9. To elect directors and appoint officers, employees, and agents of the corporation, define their duties, fix
940 their compensation, and lend them money and credit;

941 10. To make and amend bylaws, not ~~inconsistent with its articles of incorporation or in conflict with the~~
942 laws of the Commonwealth *or, unless the articles of incorporation provide otherwise, the articles of*
943 *incorporation;*

944 11. To make donations for the public welfare or for religious, charitable, scientific, literary or educational
945 purposes;

946 12. To pay pensions and establish pension plans, pension trusts, profit-sharing plans, bonus plans, and
947 benefit and incentive plans for any or all of the current or former directors, officers, employees, and agents of
948 the corporation or any of its subsidiaries;

949 13. To insure for its benefit the life of any of its directors, officers, or employees and to continue such
950 insurance after the relationship terminates;

951 14. To make payments or donations or do any other act not inconsistent with this section or any other
952 applicable law that furthers the business and affairs of the corporation;

953 15. To pay compensation or to pay additional compensation to any or all directors, officers, and
954 employees on account of services previously rendered to the corporation, whether or not an agreement to pay
955 such compensation was made before such services were rendered;

956 16. *Except as otherwise provided in subsection B, to be a promoter, partner, member, associate, or*
957 *manager of any partnership, joint venture, trust, or other entity.*

958 17. To cease its corporate activities and surrender its corporate franchise; and

959 18. To have and exercise all powers necessary or convenient to effect any or all of the purposes for
960 which the corporation is organized.

961 B. Each corporation other than a banking corporation, an insurance corporation, a savings institution or a
962 credit union shall have power to enter into partnership agreements, joint ventures or other associations of any
963 kind with any person or persons. The foregoing limitations on banking corporations, insurance corporations,
964 savings institutions, and credit unions shall not apply to the purchase by any such entity of any security of a
965 limited liability company.

966 C. Privileges and powers conferred and restrictions and requirements imposed by other titles of the Code
967 on railroads or other public service companies, banking corporations, insurance corporations, savings
968 institutions, credit unions, industrial loan associations or other special types of corporations shall not be
969 deemed repealed or amended by any provision of this chapter except where specifically so provided.

970 D. Each corporation ~~which~~ *that* is deemed a private foundation, as defined in § 509 of the Internal
971 Revenue Code, unless its articles of incorporation expressly provide otherwise, shall distribute its income
972 and, if necessary, principal, for each taxable year at such time and in such manner as not to subject such
973 corporation to tax under § 4942 of the Internal Revenue Code. Such corporation shall not engage in any act of
974 self-dealing, as defined in § 4941(d) of the Internal Revenue Code, retain any excess business holdings, as
975 defined in § 4943(c) of the Internal Revenue Code, make any investments in such manner as to give rise to
976 liability for the tax imposed by § 4944 of the Internal Revenue Code, or make any taxable expenditures, as
977 defined in § 4945(d) of the Internal Revenue Code. This subsection shall apply to any corporation organized
978 after December 31, 1969, under this chapter or under the Virginia Nonstock Corporation Act (§ 13.1-201 et
979 seq.) enacted by Chapter 428 of the Acts of Assembly of 1956; and to any corporation organized before
980 January 1, 1970, only for its taxable years beginning on and after January 1, 1972, unless the exceptions
981 provided in § 508(e)(2)(B) or (C) of the Internal Revenue Code shall apply or unless the board of directors of
982 such corporation ~~shall elect~~ *has elected* that such restrictions as contained in this subsection shall not apply by
983 filing written notice of such election with the Attorney General and the clerk of the Commission on or before
984 December 31, 1971. Each reference to a section of the Internal Revenue Code made in this subsection shall
985 include future amendments to such Code sections and corresponding provisions of future internal revenue
986 laws.

987 **§ 13.1-827. Emergency powers.**

988 A. In anticipation of or during an emergency ~~defined as described~~ in subsection D of § 13.1-824, the

989 board of directors of a corporation may:

990 1. Modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent;
991 and

992 2. Relocate the principal office, designate alternative principal offices or regional offices, or authorize the
993 officers to do so.

994 B. During *such an emergency defined in subsection D*, unless emergency bylaws provide otherwise:

995 1. Notice of a meeting of the board of directors need be given only to those directors whom it is
996 practicable to reach and may be given in any practicable manner, including by *electronic transmission, press*
997 *release, publication and, or radio*; and

998 2. One or more officers of the corporation present at a meeting of the board of directors may be deemed
999 by a majority of the directors present at the meeting to be directors for the meeting, in order of rank and
1000 within the same rank in order of seniority, as necessary to achieve a quorum.

1001 C. *During such an emergency, the board of directors, or if a quorum cannot be readily convened for a meeting, a majority of the directors present may take any action it determines to be practical and necessary to address circumstances of the emergency with respect to a meeting of members notwithstanding anything to the contrary in this chapter, the articles of incorporation, or bylaws, including to postpone any such meeting to a later time or date, with the record date for determining the members entitled to notice of, and to vote at, such meeting applying to the postponed meeting irrespective of § 13.1-844, unless the board of directors fixes a new record date. No person shall be liable and no meeting of members shall be postponed or voided for the failure to make a list of members available pursuant to § 13.1-845 if it was not practicable to allow inspection during such an emergency.*

1010 Corporate action taken in good faith during an emergency under this section to further the ordinary
1011 business affairs of the corporation:

1012 1. Binds the corporation; and

1013 2. May not be used to impose liability on a director, officer, employee, or agent of the corporation.

1014 D. An emergency exists for purposes of this section if a quorum of the corporation's board of directors
1015 cannot readily be assembled because of some catastrophic event.

1016 **§ 13.1-828. Lack of power to act.**

1017 A. Except as provided in subsection B, *the validity of corporate action may shall* not be challenged on the
1018 ground that the corporation lacks or lacked power to act.

1019 B. A corporation's power to act may be challenged:

1020 1. In a proceeding by a member or a director against the corporation to enjoin the act;

1021 2. In a proceeding by the corporation, directly, derivatively, or through a receiver, trustee, or other legal
1022 representative, against an incumbent or former officer, director, employee, or agent of the corporation; or

1023 3. In a proceeding against *a* the corporation before the Commission.

1024 C. In a proceeding by a member or a director under subdivision B 1 to enjoin an unauthorized corporate
1025 act, the court, *if equitable or if all affected persons are parties to the proceeding*, may enjoin or set aside the
1026 act and may award damages for loss, except anticipated profits, suffered by the corporation or another party
1027 because of enjoining the unauthorized act.

1028 **§ 13.1-834. Change of registered office or registered agent.**

1029 A. A corporation may change its registered office or registered agent, or both, upon filing with the
1030 Commission a statement of change on a form prescribed and furnished by the Commission that sets forth:

1031 1. The name of the corporation;

1032 2. The address of its current registered office;

1033 3. If the current registered office is to be changed, the post-office address, including the street and
1034 number, if any, of the new registered office, and the name of the city or county in which it is to be located;

1035 4. The name of its current registered agent;

1036 5. If the current registered agent is to be changed, the name of the new registered agent; and

1037 6. That after the change or changes are made, the corporation will be in compliance with the requirements
1038 of § 13.1-833.

1039 B. A statement of change shall forthwith be filed with the Commission by a corporation whenever its
1040 registered agent dies, resigns or ceases to satisfy the requirements of § 13.1-833.

1041 C. A corporation's registered agent may sign a statement *of change* as required above if (i) the business
1042 address of the registered agent changes to another post office address within the Commonwealth or (ii) the
1043 name of the registered agent has been legally changed. A corporation's new registered agent may sign and
1044 submit for filing a statement *of change* as required above if (a) the former registered agent is a business entity
1045 that has been merged into the new registered agent, (b) the instrument of merger is on record in the office of
1046 the clerk of the Commission, and (c) the new registered agent is an entity that is qualified to serve as a
1047 registered agent pursuant to § 13.1-833. In either instance, the registered agent or surviving entity shall
1048 forthwith file a statement *of change* as required above, which shall recite that a copy of the statement shall be
1049 mailed to the principal office address of the corporation on or before the business day following the day on
1050 which the statement *of change* is filed.

1051 § 13.1-835. Resignation of registered agent.

1052 A. A registered agent may resign as agent for the corporation by signing and filing with the Commission a
1053 statement of resignation stating (i) the name of the corporation, (ii) the name of the agent, and (iii) that the
1054 agent resigns from serving as registered agent for the corporation. The statement of resignation shall be
1055 accompanied by a certification that the registered agent will have a copy of the statement mailed to the
1056 principal office of the corporation by certified mail on or before the business day following the day on which
1057 the statement is filed. When the statement of resignation takes effect, the registered office is also
1058 discontinued.

1059 B. A statement of resignation takes effect on the earlier of (i) 12:01 a.m. on the thirty-first day after the
1060 date on which the statement was filed with the Commission or (ii) the date on which a statement of change to
1061 appoint a registered agent is filed, in accordance with § 13.1-834, with the Commission.

1062 § 13.1-837. Members.

1063 A. A corporation may have one or more classes of members or may have no members. If the corporation
1064 has one or more classes of members, the designation of such class or classes and the qualifications and rights
1065 of the members of each class shall be set forth in the articles of incorporation or, if the articles of
1066 incorporation so provide, in the bylaws.

1067 B. Except as provided in the articles of incorporation or bylaws, the corporation may admit members for
1068 no consideration or for such consideration as determined by the board of directors. Any such consideration
1069 may consist of any tangible property or benefit to the corporation, including cash, promissory notes, services
1070 performed, or contracts for services to be performed, and payment may be made at such times and upon such
1071 terms as are set forth in the articles of incorporation or bylaws, or to the extent not inconsistent with the
1072 articles of incorporation or bylaws, as determined by the board of directors.

1073 C. A corporation may issue certificates evidencing membership interests therein. Membership interests
1074 shall not be transferable, except as otherwise provided in the articles of incorporation or in the bylaws.

1075 D. Members shall not have voting or other rights except as provided in the articles of incorporation or if
1076 the articles of incorporation so provide, in the bylaws. Members of any corporation existing on January 1,
1077 1957, shall continue to have the same voting and other rights as before January 1, 1957, until changed by
1078 amendment of the articles of incorporation.

1079 E. Except as provided for in the articles of incorporation or bylaws, a corporation shall not pay dividends
1080 or distribute any part of its assets, income, or profits to its members. A charitable corporation shall only
1081 make a distribution to another charitable corporation that is a member of such corporation or has the power
1082 to appoint one or more of its directors. No such dividend or distribution shall, in any event, be made if the
1083 corporation is insolvent or would thereby be made insolvent or if the fair value of the assets of the
1084 corporation is or would thereby be made insufficient to meet its liabilities.

1085 F. No member shall be personally liable for any liabilities of the corporation, including liabilities arising
1086 from the acts of the corporation.

1087 § 13.1-837.1. Member's liability for dues, assessments, and fees.

1088 A. A corporation may levy dues, assessments, and fees on its members to the extent authorized in the
1089 articles of incorporation or bylaws. Dues, assessments, and fees may be imposed on members of the same
1090 class either alike or in different amounts or proportions, and may be imposed on a different basis on different
1091 classes of members. Members of a class may be made exempt from dues, assessments, and fees to the extent
1092 provided in the articles of incorporation or bylaws.

1093 B. The amount and method of collection of dues, assessments, and fees may be fixed in the articles of
1094 incorporation or bylaws, or the articles of incorporation or bylaws may authorize the board of directors or
1095 members to fix the amount and method of collection.

1096 C. The articles of incorporation or bylaws may provide reasonable means, such as termination or
1097 suspension of membership, to enforce the collection of dues, assessments, and fees.

1098 § 13.1-837.2. Termination and suspension.

1099 A. A membership in a corporation may be terminated or suspended for the reasons and in the manner
1100 provided in the articles of incorporation or bylaws.

1101 B. The articles of incorporation or bylaws may include a provision to permit a member to resign as a
1102 member.

1103 C. A proceeding challenging a termination or suspension for any reason shall be commenced within one
1104 year after the effective date of the termination or suspension.

1105 D. The termination or suspension of a member does not relieve the member from any obligations incurred
1106 or commitments made prior to the termination or suspension.

1107 § 13.1-838. Annual meeting.

1108 A. A corporation shall hold a meeting of members annually at a time stated in or fixed in accordance with
1109 the bylaws unless (i) directors are elected by written consent as permitted by § 13.1-841 or (ii) the board of
1110 directors authorizes the meeting to be conducted solely by ballots submitted electronically, by mail, or by a
1111 combination of the two.

1112 B. Except as otherwise determined by the board of directors acting pursuant to subsection C of

1113 § 13.1-844.2, meetings of members may be held at such place, in or ~~out~~ *outside* of the Commonwealth, as
 1114 ~~may be provided in~~ *at the place stated in or fixed in accordance with* the bylaws or, ~~where~~ *if* not inconsistent
 1115 with the bylaws, in the notice of the meeting.

1116 C. The failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation's
 1117 bylaws does not affect the validity of any corporate action.

1118 **§ 13.1-839. Special meeting.**

1119 A. A corporation shall hold a special meeting of members:

1120 1. On call of the ~~chairman~~ *chair* of the board of directors, the president, the board of directors, or the
 1121 person or persons authorized to do so by the articles of incorporation or bylaws; or

1122 2. In the absence of a provision in the articles of incorporation or bylaws stating who may call a special
 1123 meeting of members, a ~~special meeting~~ *on the call* of members ~~may be called by members~~ having
 1124 one-twentieth of the votes entitled to be cast at such meeting.

1125 B. Unless otherwise provided in the articles of incorporation *or bylaws*, a written demand for a special
 1126 meeting may be revoked by a writing, including an electronic transmission, to that effect received by the
 1127 ~~corporation prior to the receipt by the corporation of demands sufficient in number to require the holding of a~~
 1128 ~~corporation's secretary before the start of the~~ special meeting.

1129 C. If not otherwise fixed under § 13.1-840 or 13.1-844, the record date for determining members entitled
 1130 to demand a special meeting ~~is the date the first member signs the shall be the first date on which a signed~~
 1131 ~~member demand is delivered to the corporation's secretary. No written demand for a special meeting shall be~~
 1132 ~~effective unless written demands signed by members that satisfy the requirements of subsection A have been~~
 1133 ~~delivered to the corporation's secretary within 60 days of the earliest date on which such a demand delivered~~
 1134 ~~to the corporation's secretary was signed.~~

1135 D. Except as otherwise determined by the board of directors acting pursuant to subsection C of
 1136 § 13.1-844.2, ~~members' special meetings of members~~ may be held ~~at such place~~ in or ~~out~~ *outside* of the
 1137 Commonwealth ~~as may be provided in the bylaws or, where not inconsistent at the place stated in or fixed in~~
 1138 ~~accordance with the bylaws, in the notice of the meeting. If no place is so stated or fixed, special meetings~~
 1139 ~~shall be held at the corporation's principal office.~~

1140 E. Only business within the purpose or purposes described in the meeting notice required by subsection C
 1141 of § 13.1-842 ~~may~~ *shall* be conducted at a special members' meeting.

1142 **§ 13.1-840. Court-ordered meeting.**

1143 A. The circuit court of the city or county where a corporation's principal office is located, or, if none in the
 1144 Commonwealth, where its registered office is located, may, after notice to the corporation, order a meeting of
 1145 members to be held:

1146 1. On petition of any member of the corporation entitled to participate in an annual meeting if an annual
 1147 meeting was not held, *or action by written consent in lieu of an annual meeting did not become effective*,
 1148 within 15 months after its last annual meeting or, if there has been no annual meeting, the date of its
 1149 incorporation; or

1150 2. On petition of a member who signed a demand for a special meeting that satisfies the requirements of
 1151 subsection A of § 13.1-839 if:

1152 a. Notice of the special meeting was not given within 30 days after the date the demand was delivered to
 1153 the corporation's secretary; or

1154 b. The special meeting was not held in accordance with the notice.

1155 B. The court may fix the *date*, time, and place of the meeting, determine the members entitled to
 1156 participate in the meeting, specify a record date for determining members entitled to notice of and to vote at
 1157 the meeting, prescribe the form and content of the meeting notice, *fix the quorum required for specific*
 1158 *matters to be considered at the meeting or direct that the members represented at the meeting constitute a*
 1159 *quorum for action on specific matters*, and enter other orders necessary to accomplish the purpose or
 1160 purposes of the meeting.

1161 **§ 13.1-841. Corporate action without meeting.**

1162 A. 1. Corporate action required or permitted by this chapter to be taken at a meeting of the members may
 1163 be taken without a meeting and without prior notice if the corporate action is taken by all members entitled to
 1164 vote on the corporate action, in which case no corporate action by the board of directors shall be required.

1165 2. Notwithstanding subdivision 1 of this subsection, if so provided in the articles of incorporation *or*
 1166 bylaws of a corporation, corporate action required or permitted by this chapter to be taken at a meeting of
 1167 members may be taken without a meeting and without prior notice, if the corporate action is taken by
 1168 members who would be entitled to vote at a meeting of members having voting power to cast not fewer than
 1169 the minimum number (or numbers, in the case of voting by voting groups) of votes that would be necessary
 1170 to authorize or take the corporate action at a meeting at which all members entitled to vote thereon were
 1171 present and voted.

1172 3. The corporate action shall be evidenced by one or more written consents bearing the date of *execution*
 1173 *signature* and describing the corporate action taken, signed by the members entitled to take such corporate
 1174 action without a meeting and delivered to the secretary of the corporation for *inclusion in the minutes or*

1175 filing by the corporation with the minutes of the meeting or the corporate records. Any corporate action taken
1176 by written consent shall be effective according to its terms when the requisite consents are in possession of
1177 the corporation. Corporate action taken under this section is effective as of the date specified therein,
1178 provided the consent states the date of execution by each member.

1179 B. If not otherwise determined under § 13.1-840 or 13.1-844 and if prior action by the board of directors
1180 is not required respecting the action to be taken without a meeting, the record date for determining members
1181 entitled to take corporate action without a meeting is the date the first member signs the consent under
1182 subsection A date on which a signed written consent is delivered to the corporation's secretary. If not
1183 otherwise fixed under § 13.1-840 or 13.1-844 and if prior action by the board of directors is required
1184 respecting the action to be taken without a meeting, the record date shall be the close of business on the day
1185 action by the board of directors is to be taken. No written consent shall be effective to take the corporate
1186 action referred to therein unless, within 60 days after of the earliest date of execution appearing on which
1187 a consent delivered to the corporation in the manner corporation's secretary as required by this section was
1188 signed, written consents signed by the members having sufficient in number votes to take corporate action are
1189 received by the corporation have been delivered to the corporation's secretary. A written consent may be
1190 revoked by a writing to that effect received by the corporation prior to receipt by the corporation of delivered
1191 to the corporation's secretary before unrevoked written consents sufficient in number to take corporate action
1192 are delivered to the corporation.

1193 C. For purposes of this section, a written consent and the signing thereof may be accomplished by one or
1194 more electronic transmissions, as defined in § 13.1-803. A consent signed under this section has the effect of
1195 a vote of voting members taken at a meeting and may be described as such in any document filed with the
1196 Commission under this chapter. Unless the articles of incorporation or bylaws provide for a reasonable delay
1197 to permit tabulation or written consents, the action taken by written consent shall be effective when (i) written
1198 consents signed by the members having sufficient votes to take the action are delivered to the corporation's
1199 secretary or (ii) if an effective date is specified therein, any such date provided each consent states the date of
1200 execution by the consenting member.

1201 D. If corporate action is to be taken under this section by fewer than all of the members entitled to vote on
1202 the action, the corporation shall give the nonconsenting voting members written notice of the proposed
1203 corporate action, not less more than five 10 days before the action is taken, to all persons who are members
1204 on the record date and who are entitled to vote on the matter after written consents sufficient to take the
1205 action have been delivered to the corporation's secretary. The notice shall reasonably describe the action
1206 taken and contain or be accompanied by the same material that under this chapter would have been required
1207 to be sent to members in a notice of meeting at which the corporate action would have been submitted to the
1208 members for a vote.

1209 E. If this chapter requires that notice of proposed corporate action be given to nonvoting members and the
1210 corporate action is to be taken by consent of the voting members, the corporation shall give its nonvoting
1211 members written notice of the proposed action not less more than five 10 days before it is taken after the
1212 written consents sufficient to take action have been delivered to the corporation's secretary. The notice shall
1213 reasonably describe the action taken and contain or be accompanied by the same material that under this
1214 chapter would have been required to be sent to nonvoting members in a notice of meeting at which the
1215 corporate action would have been submitted to the members for a vote.

1216 F. The notice requirements in subsections D and E shall not delay the effectiveness of action taken by
1217 written consent, and a failure to comply with such notice requirements shall not invalidate actions taken by
1218 written consent; however, this subsection shall not be construed to limit judicial power to fashion an
1219 appropriate remedy in favor of a member adversely affected by a failure to give such notice within the
1220 required time period.

1221 G. Any person, whether or not then a member, may provide that a consent in writing as a member shall be
1222 effective at a future time, including the time when an event occurs, but such future time shall not be more
1223 than 60 days after such provision is made. Any such consent shall be deemed to have been made for purposes
1224 of this section at the future time so specified for the consent to be effective, provided that (i) the person is a
1225 member at such future time and (ii) the person did not revoke the consent prior to such future time.

1226 § 13.1-842. Notice of meeting.

1227 A. A corporation shall notify members of the date, time, and place, if any, of each annual and special
1228 members' meeting. Such notice shall be given of members no less than 10 nor more than 60 days before the
1229 meeting date except that notice of a members' special meeting of members to act on an amendment of the
1230 articles of incorporation, a plan of merger, interest exchange, domestication, conversion, a proposed sale of
1231 assets pursuant to § 13.1-900, or the dissolution of the corporation shall be given not less than 25 nor more
1232 than 60 days before the meeting date. If the board of directors has authorized participation for members by
1233 means of remote communication pursuant to § 13.1-844.2, the notice to the member shall describe the means
1234 of remote communication to be used. Unless this chapter or the articles of incorporation require otherwise, the
1235 corporation is required to give notice only to members entitled to vote at the meeting as of the record date for
1236 determining members entitled to notice of the meeting.

1237 2. In lieu of delivering notice as specified in subdivision A 1, the corporation may publish such notice at
 1238 least once a week for two successive calendar weeks in a newspaper published in the city or county in which
 1239 the registered office is located, or having a general circulation therein, the first publication to be not more
 1240 than 60 days, and the second not less than seven days before the date of the meeting.

1241 B. Unless this chapter or, the articles of incorporation, or the bylaws require otherwise, notice of an
 1242 annual meeting of members need not state the purpose or purposes for which the meeting is called.

1243 C. Notice of a special meeting of members shall state the purpose or purposes for which the meeting is
 1244 called.

1245 D. If not otherwise fixed under § 13.1-840 or 13.1-844, the record date for determining members entitled
 1246 to notice of and to vote at an annual or special meeting of members is the day before the effective date of the
 1247 first notice is delivered to members.

1248 E. Unless the bylaws require otherwise, if an annual or special meeting of members is adjourned to a
 1249 different date, time, or place, notice need not be given of the new time, date, or place if the new date, time, or
 1250 place, if any, is announced at the meeting before adjournment. If a new record date for the adjourned meeting
 1251 is or shall be fixed under § 13.1-844, however, not less than 10 days before the meeting date notice of the
 1252 adjourned meeting shall be given under this section to persons who are not less than 10 days before the
 1253 meeting date to members entitled to vote at such adjourned meeting as of the new record date fixed for notice
 1254 of such adjourned meeting.

1255 **§ 13.1-843. Waiver of notice.**

1256 A. A member may waive any notice required by this Act chapter, the articles of incorporation, or the
 1257 bylaws before or after the date and time of the meeting that is the subject of such stated in the notice. The
 1258 waiver shall be in writing, be signed by the member entitled to the notice, and be delivered to the secretary of
 1259 the corporation for inclusion in filing by the corporation with the minutes or filing with the corporate records.

1260 B. A member's attendance at a meeting:

1261 1. Waives objection to lack of notice or defective notice of the meeting, unless the member at the
 1262 beginning of the meeting objects to holding the meeting or transacting business at the meeting; and

1263 2. Waives objection to consideration of a particular matter at the meeting that is not within the purpose or
 1264 purposes described in the meeting notice, unless the member objects to considering the matter when it is
 1265 presented.

1266 **§ 13.1-844. Record date.**

1267 A. The bylaws may fix or provide the manner of fixing in advance the record date for one or more voting
 1268 groups in order to make a determination of members for any purpose to determine the members entitled to
 1269 notice of a members' meeting, to demand a special meeting, to vote or take action by written consent, or to
 1270 take any other action. If the bylaws do not fix or provide for the manner of fixing a record date, the board of
 1271 directors of the corporation may fix as in advance the record date the date on which it takes such action or a
 1272 future date.

1273 B. A record date fixed under this section may not be more than 70 days before the meeting or action
 1274 requiring a determination of members.

1275 C. A determination of members entitled to notice of or to vote at a members' meeting is effective for any
 1276 adjournment of the meeting unless the board of directors fixes a new record date, which it shall do if the
 1277 meeting is adjourned to a date more than 120 days after the date fixed for the original meeting.

1278 D. If a court orders a meeting adjourned to a date more than 120 days after the date fixed for the original
 1279 meeting, it may provide that the original record date continues in effect or it may fix a new record date.

1280 **§ 13.1-844.1. Conduct of the meeting.**

1281 A. At each meeting of members, a chairman chair shall preside. The chairman chair shall be appointed as
 1282 provided in the articles of incorporation, bylaws, or, in the absence of such a provision, by the board of
 1283 directors.

1284 B. Unless the articles of incorporation or bylaws provide otherwise, the chairman chair shall determine
 1285 the order of business and shall have the authority to establish rules for the conduct of the meeting.

1286 C. The chairman chair of the meeting shall announce at the meeting when the polls will open and close
 1287 for each matter voted upon. If no announcement is made, the polls shall be deemed to have opened at the
 1288 beginning of the meeting and to close upon the final adjournment of the meeting.

1289 **§ 13.1-844.2. Remote participation in annual and special meetings.**

1290 A. Members may participate in any meeting of members by means of remote communication to the extent
 1291 the board of directors authorizes such participation for members. Participation as a member by means of
 1292 remote communication shall be subject to such guidelines and procedures as the board of directors adopts,
 1293 and shall be in conformity with subsection B.

1294 B. Members participating in a members' meeting by means of remote communication shall be deemed
 1295 present and may vote at such a meeting if the corporation has implemented reasonable measures to:

1296 1. Verify that each person participating remotely as a member is a member or a member's proxy; and

1297 2. Provide such members a reasonable opportunity to participate in the meeting and to vote on matters
 1298 submitted to the members, including an opportunity to read or hear the proceedings of the meeting,

1299 substantially concurrently with such proceedings.

1300 C. Unless the articles of incorporation or bylaws require the meeting of members to be held at a place, the
1301 board of directors may determine that any meeting of members shall not be held at any place and shall instead
1302 be held solely by means of remote communication in conformity with subsection B.

1303 **§ 13.1-845. Members' list for meeting.**

1304 A. After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of
1305 all its members who are entitled to notice of a members' meeting. If the board of directors fixes a different
1306 record date to determine the members entitled and to vote at the meeting, a corporation shall also prepare an
1307 alphabetical list of the names of all its members who are entitled to vote at the a members' meeting. A list
1308 shall be arranged by voting group, and show the address of each member. Nothing in this subsection shall
1309 require the corporation to include on such list the electronic mail address or other electronic contact
1310 information of a member.

1311 B. The members' list for notice shall be available for inspection by any member, beginning two five
1312 business days after notice of the meeting is given for which the list was prepared and continuing through the
1313 close of business on the last day before the meeting, (i) at the corporation's principal office or at a place
1314 identified in the meeting notice in the county or city where the meeting will be held. A members' list for
1315 voting shall be similarly available for inspection promptly after the record date for voting or (ii) in the sole
1316 discretion of the corporation, on a reasonably accessible electronic network, provided that the information
1317 required to gain access to such list is provided with the notice of the meeting. In the event that the
1318 corporation determines to make the list available on an electronic network, the corporation may take
1319 reasonable steps to ensure that such information is available only to members of the corporation. A member,
1320 or the member's agent or attorney, is entitled on written demand to inspect and, subject to the requirements
1321 set forth in subsection of subsections C and G of § 13.1-933, to copy a list, during the regular business hours
1322 and at the member's expense, during the period it is available for inspection.

1323 C. If the meeting is to be held at a place, the corporation shall make the list of members entitled to vote
1324 available at the meeting, and any member, or the member's agent or attorney, is entitled to inspect the list at
1325 any time during the meeting or any adjournment.

1326 D. If the corporation refuses to allow a member, the member's agent, or the member's attorney to inspect a
1327 members' list before or at the meeting as provided in subsections B and C, or to copy a list as permitted by
1328 subsection B, the circuit court of the county or city where the corporation's principal office, or if none in the
1329 Commonwealth its registered office, is located, on application of the member, may summarily order the
1330 inspection or copying at the corporation's expense and may postpone the meeting for which the list was
1331 prepared until the inspection or copying is complete.

1332 E. D. Refusal or failure to prepare or make available a the members' list does not affect the validity of
1333 action taken at the meeting.

1334 **§ 13.1-846. Voting entitlement of members.**

1335 A. Members shall not be entitled to vote except as the right to vote shall be conferred by the articles of
1336 incorporation or if the articles of incorporation so provide, in the bylaws.

1337 B. When directors or officers are to be elected by members, the bylaws may provide that such elections
1338 may board of directors may authorize the meeting to be conducted solely by mail ballots submitted
1339 electronically, mail, or a combination of the two.

1340 C. Unless the articles of incorporation or bylaws provide otherwise, in the election of directors by
1341 members, every member, regardless of class, is entitled to one vote for as many persons as there are directors
1342 to be elected at that time and for whose election the member has a right to vote.

1343 D. If a corporation has no members or its members have no right to vote, the directors shall have the sole
1344 voting power.

1345 **§ 13.1-847. Proxies.**

1346 A. A member entitled to vote may vote in person or, unless the articles of incorporation or bylaws
1347 otherwise provide, by proxy.

1348 B. A member or the member's agent or attorney-in-fact may appoint a proxy to vote or otherwise act for
1349 the member by signing an appointment form or by an electronic transmission. Any copy, facsimile
1350 telecommunications or other reliable reproduction of the writing or transmission created pursuant to this
1351 subsection may be substituted or used in lieu of the original writing or transmission for any and all purposes
1352 for which the original writing or transmission could be used, provided that such copy, facsimile
1353 telecommunication or other reproduction shall be a complete reproduction of the entire original writing or
1354 transmission. An electronic transmission shall contain or be accompanied by information from which the
1355 recipient can determine the date of the transmission and that the transmission was authorized by the sender
1356 or the sender's agent or attorney-in-fact.

1357 C. An appointment of a proxy is effective when a signed appointment form or an electronic transmission
1358 of the appointment is received by the inspectors of election or the officer or agent of the corporation
1359 authorized to tabulate count votes. An appointment is valid for 11 months unless a longer period is expressly
1360 the term provided in the appointment form and, if no term is provided, for 11 months unless the appointment

1361 *is irrevocable under subsection D.*

1362 D. An appointment of a proxy is revocable unless the appointment form or electronic transmission states
 1363 that it is irrevocable and the appointment is coupled with an interest. Appointments coupled with an interest
 1364 include the appointment of:

- 1365 1. A pledge;
- 1366 2. A creditor of the corporation who extended it credit under terms requiring the appointment;
- 1367 2. 3. An employee of the corporation whose employment contract requires the appointment; or
- 1368 3. 4. A party to a voting agreement created under § 13.1-852.2.

1369 E. The death or incapacity of the member appointing a proxy does not affect the right of the corporation to
 1370 accept the proxy's authority unless notice of the death or incapacity is received by the secretary or other
 1371 officer or agent authorized to ~~tabulate~~ count votes before the proxy exercises the proxy's authority under the
 1372 appointment.

1373 F. An appointment made irrevocable under subsection D is revoked when the interest with which it is
 1374 coupled is extinguished.

1375 G. Subject to § 13.1-848 and to any express limitation on the proxy's authority stated in the appointment
 1376 form or electronic transmission, a corporation is entitled to accept the proxy's vote or other action as that of
 1377 the member making the appointment.

1378 H. *Any Unless the articles of incorporation or bylaws provide otherwise, any fiduciary who is entitled to*
 1379 *vote any membership interest may vote such membership interest by proxy.*

1380 **§ 13.1-847.1. Voting procedures and inspectors of elections.**

1381 A. A corporation may appoint one or more persons as inspectors to act at a meeting of members in
 1382 connection with determining voting results. Each inspector, before entering upon the discharge of his duties,
 1383 shall ~~eertify~~ verify in writing that the inspector will faithfully execute the duties of inspector with strict
 1384 impartiality and according to the best of his the inspector's ability. An inspector may be an officer or
 1385 employee of a corporation. An inspector may appoint or retain other persons to assist the inspector in the
 1386 performance of the inspector's duties under subsection B, and may rely on information provided by such
 1387 persons and other persons, including those appointed to count votes, unless the inspector believes reliance is
 1388 unwarranted.

1389 B. The inspectors shall (i) ascertain the number of members and the voting power of each; (ii) determine
 1390 the number of the members represented at a meeting and the validity of proxy appointments, if not prohibited
 1391 pursuant to subsection A of § 13.1-847, and ballots; (iii) count all votes; and (iv) determine, and retain for a
 1392 reasonable period a record of the disposition of, any challenges made to any determination by the inspectors,
 1393 and (v) certify their determination of the number of members represented at the meeting and their count of
 1394 the votes. The inspectors may appoint or retain other persons or entities to assist the inspectors in the
 1395 performance of their duties, and may rely on information provided by such persons and other persons,
 1396 including those appointed to tabulate votes, unless the inspectors believe reliance is unwarranted. In any court
 1397 proceeding there shall be a rebuttable presumption that the report of the inspectors is correct make a written
 1398 report of the results.

1399 C. No ballot ballots, proxies, or votes, nor any revocations thereof or changes thereto, shall be accepted by
 1400 the inspectors after the closing of the polls unless the circuit court of the city or county where the
 1401 corporation's principal office is located or, if none in the Commonwealth, where its registered office is
 1402 located, upon application by a member, shall determine otherwise.

1403 D. In determining the validity of proxies and ballots and in counting the votes, the inspectors shall be
 1404 limited to an examination of the proxies, any envelopes submitted with those proxies, any performing their
 1405 duties, the inspectors may examine (i) the proxy appointment forms or electronic transmissions and any other
 1406 information provided in accordance with subsection B of § 13.1-847, (ii) any envelope or related writing
 1407 submitted with those appointment forms, (iii) any ballots, (iv) any evidence or other information specified in
 1408 § 13.1-848, and (v) the regular relevant books and records of the corporation relating to members and their
 1409 entitlement to vote. If the inspectors

1410 E. The inspectors may also consider other reliable information for the limited purpose permitted herein,
 1411 they shall specify, at the time that they make their certification pursuant to clause (v) of subsection B, the
 1412 precise information that they considered, including believe is relevant and reliable for the purpose of
 1413 performing any of the duties assigned to them pursuant to subsection B. If the inspectors consider other
 1414 information allowed by this subsection, they shall in their report required by subsection B specify the
 1415 information considered by them, including the purpose for which the information was considered, the person
 1416 or persons from whom they obtained the information, when the information was obtained, the means by
 1417 which the information was obtained, and the basis for their belief that such information is accurate relevant
 1418 and reliable.

1419 F. Determinations of law by the inspectors are subject to de novo review by the court.

1420 G. If authorized by the board of directors, any member vote to be taken by written ballot may be
 1421 satisfied by a ballot submitted by electronic transmission by the member or the member's proxy, provided that
 1422 any such electronic transmission shall either set forth or be submitted with information from which it may be

1423 determined that the electronic transmission was authorized by the member or the member's proxy. A member
1424 who votes by a ballot submitted by electronic transmission is deemed present at the meeting of members.

1425 **§ 13.1-848. Corporation's acceptance of votes.**

1426 A. If the name signed on a vote, ballot, consent, waiver, or proxy appointment corresponds to the name of
1427 a member, the corporation, if acting in good faith, is entitled to accept the vote, ballot, consent, waiver, or
1428 proxy appointment and give it effect as the act of the member.

1429 B. If the name signed on a vote, ballot, consent, waiver, or proxy appointment does not correspond to the
1430 name of a member, the corporation, if acting in good faith, is nevertheless entitled to accept the vote, ballot,
1431 consent, waiver, or proxy appointment and give it effect as the act of the member if:

1432 1. The member is an entity and the name signed purports to be that of an officer, ~~partner~~ or agent of the
1433 entity;

1434 2. The name signed purports to be that of an administrator, executor, guardian, ~~or~~ conservator, *committee*,
1435 *or curator* representing the member and, if the corporation requests, evidence of *fiduciary* *this* status
1436 acceptable to the corporation has been presented with respect to the vote, ballot, consent, waiver, or proxy
1437 appointment;

1438 3. The name signed purports to be that of a receiver or trustee in bankruptcy of the member and, if the
1439 corporation requests, evidence acceptable to the corporation ~~that such receiver or trustee has been authorized~~
1440 ~~to vote the membership interest in an order of the court by which such person was appointed~~ has been
1441 presented with respect to the vote, ballot, consent, waiver, or proxy appointment;

1442 4. The name signed purports to be that of a *pledgee*, beneficial owner, or attorney-in-fact of the member
1443 and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for
1444 the member has been presented with respect to the vote, ballot, consent, waiver, or proxy appointment; or

1445 5. ~~Two or more~~ *Three or fewer* persons are the member as fiduciaries and the name signed purports to be
1446 the name of at least one of the fiduciaries and the person signing appears to be acting on behalf of all the
1447 fiduciaries.

1448 C. Notwithstanding the provisions of subdivisions B 2 and 5, in any case in which the will, trust
1449 agreement, or other instrument under which a fiduciary purports to act contains directions for the voting of
1450 membership interests in any corporation, or for the execution and delivery of proxies for the voting thereof,
1451 such directions shall be binding upon the fiduciary and upon the corporation if a copy thereof has been
1452 furnished to the corporation.

1453 D. The corporation is entitled to reject a vote, ballot, consent, waiver, or proxy appointment if the
1454 ~~secretary or other officer or agent~~ person authorized to *accept or reject such instrument or count votes*, acting
1455 in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's
1456 authority to sign for the member.

1457 E. Neither the corporation nor the person authorized to count votes, including an inspector of *election*
1458 under § 13.1-847.1, ~~who~~ *that* accepts or rejects a vote, ballot, consent, waiver, or proxy appointment in good
1459 faith and in accordance with the standards of this section or subsection B of § 13.1-847 is liable in damages to
1460 the member for the consequences of the acceptance or rejection.

1461 F. *If an inspector of election has been appointed pursuant to § 13.1-847.1, the inspector of election also
1462 has the authority to request information and to make determinations under subsections A, B, C, and D.*

1463 G. Corporate action based on the acceptance or rejection of a vote, ballot, consent, waiver, or proxy
1464 appointment under this section is valid unless a court of competent jurisdiction determines otherwise.

1465 **§ 13.1-849. Quorum and voting requirements.**

1466 A. The *articles of incorporation or bylaws* may provide the number or percentage of members entitled to
1467 vote represented in person or by proxy, or the number or percentage of votes represented in person or by
1468 proxy, ~~which~~ *that* shall constitute a quorum at a meeting of members. In the absence of any such provision,
1469 members holding one-tenth of the votes entitled to be cast represented in person or by proxy shall constitute a
1470 quorum. *The vote of a majority of the votes entitled to be If a quorum exists, action on a matter, other than
1471 the election of directors, by the members is approved if the votes cast by the members present or represented
1472 by proxy at a meeting at which a quorum is present shall be necessary for the adoption of any matter voted
1473 upon by the members, favoring the action exceed the votes cast opposing the action unless a greater
1474 proportion is required by this Act or chapter, the articles of incorporation, or the bylaws. An abstention shall
1475 not be considered a vote cast.* Members entitled to vote as a separate voting group may take action on a
1476 matter at a meeting only if a quorum of those members exists with respect to that matter.

1477 B. Once a member is represented for any purpose at a meeting, the member is deemed present for quorum
1478 purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date
1479 is or shall be set for that adjourned meeting.

1480 C. *An amendment of the articles of incorporation or bylaws adding, changing, or deleting a quorum or
1481 voting requirement greater than specified in subsection A is governed by § 13.1-851.*

1482 D. Less than a quorum may adjourn a meeting.

1483 D. E. The election of directors is governed by § 13.1-852.

1484 **§ 13.1-850. Action by single and multiple voting groups.**

1485 A. If the articles of incorporation, *the bylaws*, or this *Act chapter* provides for voting by a single voting
 1486 group on a matter, action on that matter is taken when voted upon by that voting group as provided in
 1487 § 13.1-849.

1488 B. If the articles of incorporation, *the bylaws*, or this *Act chapter* provides for voting by two or more
 1489 voting groups on a matter, action on that matter is taken only when voted upon by each of those voting
 1490 groups counted separately as provided in § 13.1-849. Action may be taken by ~~one different voting group~~
 1491 ~~groups on a matter even though no action is taken by another voting group entitled to vote on the matter at~~
 1492 ~~different times.~~

1493 **§ 13.1-851. Modifying quorum or voting requirements.**

1494 A. The articles of incorporation *or bylaws* may provide for (i) a lesser or greater quorum requirement for
 1495 members or voting groups of members than required by this chapter *or* (ii) a greater voting requirement for
 1496 members or voting groups of members than is provided for by this chapter.

1497 B. An amendment to the articles of incorporation *or bylaws* that adds, changes, or deletes a quorum or
 1498 voting requirement shall meet the *same* quorum requirement and be adopted by the vote and voting groups
 1499 required to take action under the quorum and voting requirements then in effect.

1500 **§ 13.1-852. Voting for directors; cumulative voting.**

1501 A. Unless otherwise provided in the articles of incorporation *or bylaws*, directors are elected by a plurality
 1502 of the votes cast by the members entitled to vote in the election at a meeting at which a quorum is present.

1503 B. Members do not have a right to cumulate their votes for directors unless the articles of incorporation *or*
 1504 *bylaws* so provide.

1505 C. A statement included in the articles of incorporation *or bylaws* that "all of a designated voting group of
 1506 members are entitled to cumulate their votes for directors" or words of similar import means that the
 1507 members designated are entitled to multiply the number of votes they are entitled to cast by the number of
 1508 directors for whom they are entitled to vote and cast the product for a single candidate or distribute the
 1509 product among two or more candidates.

1510 D. Members otherwise entitled to vote cumulatively may not vote cumulatively at a particular meeting
 1511 unless:

1512 1. ~~The~~ the meeting notice or proxy statement accompanying the notice states conspicuously that
 1513 cumulative voting is authorized; *or*

1514 2. ~~A member who has the right to cumulate his votes gives notice to the secretary of the corporation not~~
 1515 ~~less than 48 hours before the time set for the meeting of the member's intent to cumulate his votes during the~~
 1516 ~~meeting. If one member gives such a notice, all other members in the same voting group participating in the~~
 1517 ~~election are entitled to cumulate their votes without giving further notice.~~

1518 E. If the articles of incorporation *or bylaws* authorize members to cumulate their votes when electing
 1519 directors, directors shall not be elected by written consent pursuant to § 13.1-841 unless the vote is
 1520 unanimous.

1521 **§ 13.1-852.01. Judicial determination of corporate offices and review of elections and member votes.**

1522 A. The termination or suspension of a member does not relieve the member from any obligations incurred
 1523 or commitments made prior to the termination or suspension.

1524 Upon application of, or in a proceeding commenced by, a person specified in subsection B, the circuit
 1525 court in the county or city in which the principal office of the corporation is located, or, if none in the
 1526 Commonwealth, in the county in which its registered office is located may determine:

1527 1. The result or validity of the election, appointment, removal, or resignation of a director or officer of the
 1528 corporation;

1529 2. The right of an individual to hold the office of director or officer of the corporation;

1530 3. The result or validity of any vote by the members of the corporation;

1531 4. The right of a director to membership on a committee of the board of directors; and

1532 5. The right of a person to nominate, or an individual to be nominated as, a candidate for election or
 1533 appointment as a director of the corporation, and any right under any provision of the articles of
 1534 incorporation, bylaws, a contract, or applicable law.

1535 B. Any application or proceeding pursuant to subsection A may be filed or commenced by any of the
 1536 following persons:

1537 1. The corporation;

1538 2. A member of the corporation with the right to vote;

1539 3. A director of the corporation, an individual claiming the office of director, or a director whose
 1540 membership on a committee of the board of directors is contested, who, in each case, is seeking a
 1541 determination of the individual's right to such office or membership;

1542 4. An officer of the corporation or an individual claiming to be an officer of the corporation, who, in each
 1543 case, is seeking a determination of the individual's right to such office; or

1544 5. A person claiming a right covered by subdivision A 5 and who is seeking a determination of such right.

1545 C. In connection with any application or proceeding under subsection A, the following shall be named as
 1546 defendants, unless such person made the application or commenced the proceeding:

1547 1. *The corporation;*
1548 2. *An individual whose right to office or membership on a committee of the board of directors is*
1549 *contested;*
1550 3. *Any individual claiming the office or membership at issue; and*
1551 4. *Any person claiming a right covered by subdivision A 5 that is at issue.*

1552 *D. In connection with any application or proceeding under subsection A, service of process may be made*
1553 *upon each of the persons specified in subsection C either by:*

1554 1. *Serving on the corporation process addressed to such person in any manner provided by statute of the*
1555 *Commonwealth or by rule of the applicable court for service of process on the corporation; or*

1556 2. *Serving on such person process in any manner provided by statute of the Commonwealth or by rule of*
1557 *the applicable court.*

1558 *E. When service of process is made upon a person other than the corporation by service upon the*
1559 *corporation pursuant to subdivision D 1, the plaintiff and the corporation promptly shall provide written*
1560 *notice of such service, together with copies of all process and the application or complaint, to such person at*
1561 *the person's last known residence or business address, or as permitted by statute of the Commonwealth, or by*
1562 *rule of the applicable court.*

1563 *F. In connection with any application or proceeding under subsection A, the court shall dispose of the*
1564 *application or proceeding on an expedited basis and also may:*

1565 1. *Order such additional or further notice as the court deems proper under the circumstances;*
1566 2. *Order that additional persons be joined as parties to the proceeding if the court determines that such*
1567 *joinder is necessary for a just adjudication of matters before the court;*

1568 3. *Order an election or meeting to be held in accordance with the provisions of § 13.1-840 or otherwise;*
1569 4. *Appoint a master to conduct an election or meeting;*
1570 5. *Enter temporary, preliminary, or permanent injunctive relief;*
1571 6. *Resolve solely for the purpose of the proceeding any legal or factual issues necessary for the resolution*
1572 *of any of the matters specified in subsection A, including the right and power of persons claiming the right*
1573 *vote at any meeting of the members; and*

1574 7. *Order such relief as the court determines is equitable, just, and proper.*

1575 *G. It shall not be required to make members parties to a proceeding or application pursuant to this*
1576 *section unless the member is a required defendant under subdivision C 4, relief is sought against the member*
1577 *individually, or the court orders joinder pursuant to subdivision F 2.*

1578 *H. Nothing in this section limits, restricts, or abolishes the subject matter jurisdiction or powers of the*
1579 *court. An application or proceeding pursuant to this section is not the exclusive remedy or proceeding*
1580 *available with respect to the matters specified in subsection A.*

1581 § 13.1-852.1. Member or director agreements.

1582 A. An agreement among the members or the directors of a corporation that complies with this section is
1583 effective among the members or directors and the corporation, even though it is inconsistent with one or more
1584 other provisions of this chapter in that it:

1585 1. Eliminates the board of directors or, subject to the requirements of subsection A of § 13.1-872, one or
1586 more officers, or restricts the discretion or powers of the board of directors ~~or any one or more officers~~;

1587 2. Establishes who shall be directors or officers of the corporation, or their terms of office or manner of
1588 selection or removal;

1589 3. Governs, in general or in regard to specific matters, the exercise or division of voting power by or
1590 between the members and directors or by or among any of them, including use of weighted voting rights or
1591 director proxies;

1592 4. Establishes the terms and conditions of any agreement for the transfer or use of property or the
1593 provision of services between the corporation and any member, director, officer or employee of the
1594 corporation, or among any of them;

1595 5. Transfers to one or more members, directors or other persons all or part of the authority to exercise the
1596 corporate powers or to manage the business and affairs of the corporation, including the resolution of any
1597 issue about which there exists a deadlock among directors or members;

1598 6. Requires dissolution of the corporation at the request of one or more of the members, or ~~directors~~, in the
1599 case of a corporation that has no members or in which the members have no voting rights, *one or more*
1600 *directors* or upon the occurrence of a specified event or contingency; or

1601 7. Otherwise governs the exercise of the corporate powers or the management of the business and affairs
1602 of the corporation or the relationship among the members, the directors and the corporation, or among any of
1603 them, and is not contrary to public policy.

1604 B. An agreement authorized by this section shall be:

1605 1. *a. Set As set forth (i) in the articles of incorporation or bylaws and approved by all persons who are*
1606 *members or, if there are no members or the corporation's members do not have voting rights, by all persons*
1607 *who are directors at the time of the agreement; or*

1608 2. *b. Set forth (ii) in a written agreement that is signed by all persons who are members or, if there are no*

1609 members or the corporation's members do not have voting rights, by all persons who are directors at the time
 1610 of the agreement *and is made known to the corporation;*

1611 2. Subject to amendment only by all persons who are members or, if *there are no members or* the corporation's members do not have voting rights, by all persons who are directors at the time of the
 1612 amendment, unless the agreement provides otherwise; and

1613 3. Valid for an unlimited duration, if the agreement is set forth in the articles of incorporation or bylaws,
 1614 unless the agreement shall be otherwise amended by the members or the directors, as the case may be; or if
 1615 the agreement is set forth in a written agreement, as set forth in the agreement except that the duration of an
 1616 agreement that became effective prior to July 1, 2015, remains 10 years unless the agreement provided
 1617 otherwise or is subsequently amended to provide otherwise.

1618 C. The existence of an agreement authorized by this section shall be noted conspicuously on the front or
 1619 back of each certificate evidencing membership, if any. The failure to note the existence of the agreement on
 1620 the certificate shall not affect the validity of the agreement or any action taken pursuant to it.

1621 D. An agreement authorized by this section shall cease to be effective when the corporation has more than
 1622 300 members of record. If the agreement ceases to be effective for any reason, the board of directors may, if
 1623 the agreement is contained or referred to in the corporation's articles of incorporation or bylaws, adopt an
 1624 amendment to the articles of incorporation or bylaws, without member action, to delete the agreement and
 1625 any references to it.

1626 E. An agreement authorized by this section that limits the discretion or powers of the board of directors
 1627 shall relieve the directors of, and impose upon the person or persons in whom such discretion or powers are
 1628 vested, liability for acts or omissions imposed by law on directors to the extent that the discretion or powers
 1629 of the directors are limited by the agreement.

1630 F. The existence or performance of an agreement authorized by this section shall not be a ground for
 1631 imposing personal liability on any member for the acts or debts of the corporation even if the agreement or its
 1632 performance treats the corporation as if it were a partnership or results in a failure to observe the corporate
 1633 formalities otherwise applicable to the matters governed by the agreement.

1634 G. Incorporators or subscribers for membership interests may act as members or directors with respect to
 1635 an agreement authorized by this section if no members have been elected or appointed or, in the case of a
 1636 corporation that has no members, no directors ~~are~~ *were* elected or holding office when the agreement was
 1637 made.

1638 H. No action taken pursuant to this section shall change any requirement to file articles or other
 1639 documents with the Commission or affect the rights of any creditors or other third parties.

1640 I. An agreement among the members or the directors of a corporation that is consistent with the other
 1641 provisions of this chapter that does not comply with the provisions of this section shall nonetheless be
 1642 effective among the members, the directors, and the corporation.

Article 7.2.

Derivative Proceedings.

§ 13.1-852.3. Standing; condition precedent; stay of proceedings.

1643 A. *No member shall commence or maintain a derivative proceeding unless the member:*

1644 1. *Was a member of the corporation at the time of the act or omission complained of;*

1645 2. *Became a member before public disclosure and without knowledge of the act or omission complained
 1646 of;*

1647 3. *Was a member at the time the member made the written demand required by subdivision B 1; and*

1648 4. *Fairly and adequately represents the interests of the corporation in enforcing the rights of the
 1649 corporation.*

1650 B. *No member shall commence a derivative proceeding until:*

1651 1. *A written demand has been made on the corporation to take suitable action; and*

1652 2. *Ninety days have expired from the date delivery of the written demand was made on the corporation
 1653 unless (i) the member has earlier been notified that the demand has been rejected by the corporation or (ii)
 1654 irreparable injury to the corporation would result by waiting for the expiration of the 90-day period.*

1655 C. *If the corporation commences an inquiry into the allegations made in the demand or complaint, the
 1656 court may stay any derivative proceeding for such period as the court deems appropriate.*

§ 13.1-852.4. Discontinuance or settlement.

1657 A. *A derivative proceeding shall not be settled or discontinued without the court's approval. If the court
 1658 determines that a proposed discontinuance or settlement will substantially and adversely affect the interests
 1659 of the corporation's members or a class of the corporation's members, the court shall direct that notice be
 1660 given to the members affected.*

1661 B. *Notice required by subsection A shall be given in such manner as the court shall determine, and the
 1662 costs of such notice shall be borne in such manner as the court shall direct.*

§ 13.1-852.5. Foreign corporations.

1663 Notwithstanding the provisions of §§ 13.1-852.3 and 13.1-852.6, in any derivative proceeding in the right
 1664 of a foreign corporation, subject to the court's determination of whether the courts of the Commonwealth are

1671 *a convenient forum for such a proceeding, the matters covered by this article shall be governed by the laws of*
1672 *the jurisdiction of formation of the foreign corporation except for matters covered by subsection C of*
1673 *§ 13.1-852.3 and §§ 13.1-852.4 and 13.1-852.7.*

1674 **§ 13.1-852.6. Dismissal.**

1675 *A. A derivative proceeding shall be dismissed by the court on motion by the corporation if one of the*
1676 *groups specified in subsection B or E has:*

1677 *1. Conducted a review and evaluation, adequately informed in the circumstances, of the allegations made*
1678 *in the demand or complaint;*

1679 *2. Determined in good faith on the basis of that review and evaluation that the maintenance of the*
1680 *derivative proceeding is not in the best interests of the corporation; and*

1681 *3. Submitted in support of the motion a short and concise statement of the reasons for its determination.*

1682 *B. Unless a panel is appointed pursuant to subsection E, the determination in subsection A shall be made*
1683 *by:*

1684 *1. A majority vote of disinterested directors present at a meeting of the board of directors if the*
1685 *disinterested directors constitute a quorum; or*

1686 *2. A majority vote of a committee consisting of two or more disinterested directors appointed by a*
1687 *majority vote of disinterested directors present at a meeting of the board of directors, regardless of whether*
1688 *such disinterested directors constituted a quorum.*

1689 *C. If a derivative proceeding is commenced after a determination has been made rejecting a demand by a*
1690 *member, the complaint shall allege with particularity facts establishing that the requirements of subsection A*
1691 *or B have not been met. With respect to any allegation that the requirements of subsection A or B have not*
1692 *been met, the plaintiff shall be entitled to discovery if, and only with respect to, facts that are alleged in the*
1693 *complaint with particularity.*

1694 *D. The plaintiff shall have the burden of proving that the requirements of subsection A or B have not been*
1695 *met, except that the corporation shall have the burden with respect to the issue of disinterestedness under*
1696 *subsection B if the complaint alleges with particularity facts raising a substantial question as to such*
1697 *disinterestedness.*

1698 *E. Upon motion by the corporation, the court may appoint a panel of disinterested persons to make a*
1699 *determination as to whether the maintenance of the derivative proceeding is in the best interests of the*
1700 *corporation.*

1701 **§ 13.1-852.7. Payment of and security for expenses.**

1702 *On termination of a derivative proceeding, the court may:*

1703 *1. Order the corporation to pay the plaintiff's expenses incurred in the proceeding if it finds that the*
1704 *proceeding has resulted in a substantial benefit to the corporation; or*

1705 *2. Order the plaintiff or the plaintiff's attorney to pay the corporation's or any defendant's expenses*
1706 *incurred in defending the proceeding if it finds that the proceeding was commenced or maintained*
1707 *arbitrarily, vexatiously, or not in good faith.*

1708 **§ 13.1-853. Requirement for and duties of board of directors.**

1709 *A. Except as provided in an agreement authorized by § 13.1-852.1, each corporation shall have a board of*
1710 *directors.*

1711 *B. All corporate powers shall be exercised by or under the authority of the board of directors, and the*
1712 *business and affairs of the corporation shall be managed under the direction of, its and subject to the*
1713 *oversight of the board of directors, subject to any limitation set forth in the articles of incorporation or in an*
1714 *agreement authorized by § 13.1-852.1.*

1715 **§ 13.1-854. Qualification of directors.**

1716 *A. The articles of incorporation or bylaws may prescribe qualifications for directors or for nominees for*
1717 *director. Unless the articles of incorporation or bylaws so prescribe, a nominee or director need not be a*
1718 *resident of the Commonwealth or a member of the corporation.*

1719 *B. No requirement that is based on a past, current, or prospective action, or on an expression of an*
1720 *opinion, by a nominee or director that (i) relates to the discharge of a director's duties and (ii) could limit the*
1721 *ability of the nominee or director to discharge his duties as a director shall be a permissible qualification for*
1722 *a nominee or director under this section. Permissible qualifications for a nominee or director under this*
1723 *section include the person's not being or having been subject to specified criminal, civil, or regulatory*
1724 *sanctions or not having been removed as a director by judicial action or for cause.*

1725 *C. A qualification for nomination for director that is prescribed before a person's nomination shall apply*
1726 *to the person at the time of the nomination. A qualification for nomination as a director that is prescribed*
1727 *after a person's nomination shall not apply to that person with respect to such nomination.*

1728 *D. A qualification for directors that is prescribed before a person's nomination for director may provide*
1729 *that it applies (i) only at the start of the director's term or (ii) during that person's term as director. A*
1730 *qualification for directors prescribed during a director's term shall not apply to that director prior to the end*
1731 *of that director's term.*

1732 **§ 13.1-855. Number and election of directors.**

1733 A. A board of directors shall consist of one or more individuals, with the number specified in or fixed in accordance with the bylaws, or if not specified in or fixed in accordance with the bylaws, with the number specified in or fixed in accordance with the articles of incorporation or bylaws. The number of directors may be increased or decreased from time to time by amendment to the bylaws, unless of, or in the manner provided in, the articles of incorporation provide that a change in the number of directors shall be made only by amendment of the articles of incorporation or bylaws.

1739 B. *If members have a right to vote, the members may adopt a bylaw provision in the articles of incorporation or bylaws fixing the number of directors and may direct that such bylaw provision not be amended by the board of directors.*

1742 C. The articles of incorporation or bylaws may establish a variable range for the size of the board of directors by fixing a minimum and maximum number of directors. If a variable range is established, the 1743 number of directors may be fixed or changed from time to time, within the minimum and maximum, by the 1744 members or the board of directors. *However, to the extent that the corporation has members with voting 1745 privileges, only the members may change the range for the size of the board of directors or change from a 1746 fixed to a variable range size board or vice versa.*

1748 D. Directors shall be elected or appointed in the manner provided in the articles of incorporation or 1749 bylaws. If the corporation has members with voting privileges rights, directors shall be elected at the first 1750 annual members' meeting and at each annual meeting thereafter unless elected by written consent in lieu of an 1751 annual meeting as permitted by § 13.1-841 or their terms are staggered under § 13.1-858.

1752 E. No individual shall be named appointed or elected as a director without his prior consent.

§ 13.1-856. Election of directors by certain classes of members.

1754 If the articles of incorporation or bylaws authorize dividing the members into classes, the articles of 1755 incorporation or bylaws may also authorize the election of all or a specified number of directors by the 1756 members of one or more authorized classes. Each class of members entitled to elect one or more directors is a 1757 separate voting group for purposes of the election of directors.

§ 13.1-857. Terms of directors generally.

1759 A. *In the absence of a provision in the articles of incorporation fixing a term of office, the term of office 1760 for a director shall be one year. Except for ex officio directors, the terms of the initial directors of a 1761 corporation expire at the first members' meeting at which directors are elected unless their terms are 1762 staggered under § 13.1-858, in which case the term shall expire as provided for in the articles of 1763 incorporation or bylaws.*

1764 B. *The terms of the initial directors of a corporation expire at the first members' meeting at which 1765 directors are elected, or if there are no members or the corporation's members do not have voting rights, at the 1766 end of such other period as may be specified in the articles of incorporation.*

1767 C. The terms of all other elected directors expire at the next annual meeting of members following the 1768 directors' election unless their terms are staggered under § 13.1-858 or, if there are no members or the 1769 corporation's members do not have voting rights, as provided in the articles of incorporation or bylaws. *In the 1770 absence of a provision in the articles of incorporation or bylaws fixing a term of office, the term of office for 1771 a director shall be one year.*

1772 D. C. A decrease in the number of directors does not shorten an incumbent director's term.

1773 E. D. The term of a director elected by the board of directors to fill a vacancy expires at the next members' 1774 meeting at which directors are elected or, if there are no members or the corporation's members do not have 1775 voting rights, as provided in the articles of incorporation.

1776 F. E. Except in the case of ex-officio directors, despite the expiration of a director's term, a director 1777 continues to serve until his successor is elected and qualifies or until there is a decrease in the number of 1778 directors, if any.

1779 F. *The articles of incorporation or bylaws may provide for ex officio directors who shall serve in such 1780 capacity, with such rights, subject to such limitations and for such term as is set forth in the articles of 1781 incorporation or bylaws. Unless the articles of incorporation or bylaws provide otherwise, an ex officio 1782 director shall be a voting director.*

§ 13.1-858. Staggered terms of directors.

1784 A. The articles of incorporation or bylaws may provide for staggering the terms of directors by dividing 1785 the total number of directors into groups, and the terms of office of the several groups need not be uniform.

1786 B. *If the articles of incorporation permit cumulative voting, any provision establishing staggered terms of 1787 directors shall provide that at least three directors shall be elected at each annual members' meeting.*

§ 13.1-859. Resignation of directors.

1789 A. A director may resign at any time by delivering a written notice of resignation to the board of 1790 directors, its chairman chair, the president, or the secretary of the corporation.

1791 B. A resignation is effective when the notice is delivered as provided in subsection I of § 13.1-810 unless 1792 the notice specifies resignation provides for a later delayed effective time including a delayed effective time 1793 determined upon a future event. If a resignation is made effective at a later time provides for a delayed time, 1794 the board of directors may fill the pending vacancy before the effective time of the resignation if the board of

1795 directors provides that the successor does not take office until the effective time of the resignation.

1796 C. Any person who has resigned as a director of a corporation, or whose name is incorrectly on file with
1797 of record in the office of the clerk of the Commission as a director of a corporation, who has resigned or
1798 whose name is incorrectly of record may file a statement to that effect with the Commission.

1799 D. Upon the resignation of a director, the corporation may file an amended annual report with the
1800 Commission indicating the resignation of the director and the successor in office, if any.

1801 **§ 13.1-860. Removal of directors.**

1802 A. The If the articles of incorporation or bylaws authorize the members to elect directors, the members
1803 may remove one or more directors with or without cause, unless the articles of incorporation or bylaws
1804 provide that directors may be removed only with for cause.

1805 B. If a director is elected by a voting group of members, only the members of that voting group may
1806 participate in the vote to remove him.

1807 C. If cumulative voting in the election of directors is authorized by the articles of incorporation or
1808 bylaws, a director may not be removed if, in the case of a members' meeting, the number of votes sufficient to
1809 elect him under cumulative voting is voted against his removal. A director shall not be removed by action
1810 taken by less than unanimous consent if members with votes sufficient to elect the director under cumulative
1811 voting do not consent to removal. If cumulative voting in the election of directors is not authorized by the
1812 articles of incorporation or bylaws, unless the articles of incorporation or bylaws require a greater vote, a
1813 director may be removed if the number of votes cast to remove him such director constitutes a majority of the
1814 votes entitled to be cast at an election of directors of the voting group or voting groups by which the director
1815 was elected.

1816 D. If a corporation has no members or no members with voting rights, a director may be removed
1817 pursuant to procedures set forth in the articles of incorporation or bylaws, and if none are provided, a director
1818 may be removed by such vote as would suffice for his election.

1819 E. A director may be removed only by the members at a members' meeting if the meeting is called for the
1820 purpose of removing him the director. The meeting notice shall state that the purpose or one of the purposes
1821 of the meeting is removal of the director.

1822 F. Upon the removal of a director, the corporation may file an amended annual report with the
1823 Commission indicating the removal of the director and the successor in office, if any.

1824 **§ 13.1-861.1. Removal of directors by judicial proceeding.**

1825 The circuit court in the county or city in which the principal office of the corporation is located, or, if
1826 none in the Commonwealth, in the county or city in which its registered office is located, may remove a
1827 director from office, and may bar the director from reelection for a period prescribed by the court, in a
1828 proceeding commenced by or in the right of the corporation if the court finds that (i) the director engaged in
1829 fraudulent conduct with respect to the corporation or its members, grossly abused the position of director, or
1830 intentionally inflicted harm on the corporation and (ii) considering the director's course of conduct and the
1831 inadequacy of other available remedies, removal would be in the best interest of the corporation.

1832 B. A member proceeding on behalf of the corporation under subsection A shall comply with all of the
1833 requirements of Article 7.2 (§ 13.1-852.3 et seq.) except for those set forth in subdivisions A 1 and 2 of §
1834 13.1-852.3.

1835 **§ 13.1-862. Vacancy on board of directors.**

1836 A. Unless the articles of incorporation or bylaws provide otherwise, if a vacancy occurs on the board of
1837 directors, including a vacancy resulting from an increase in the number of directors:

1838 1. The members may fill the vacancy;
1839 2. The board of directors may fill the vacancy; or
1840 3. If the directors remaining in office constitute fewer are less than a quorum of the board of directors,
1841 they may fill the vacancy by the affirmative vote of a majority of the directors remaining in office.

1842 B. Unless the articles of incorporation or bylaws provide otherwise, if the vacant office was held by a
1843 director elected by a voting group of members, only the members of that voting group are entitled to vote to
1844 fill the vacancy if it is filled by the members and only the remaining directors elected by that voting group,
1845 even if less than a quorum of the board of directors, are entitled to fill the vacancy if it is filled by the
1846 remaining directors.

1847 C. A vacancy that will occur at a specific later date, by reason of a resignation effective at a later date
1848 under subsection B of § 13.1-859 or otherwise, may be filled before the vacancy occurs but the new director
1849 may not take office until the vacancy occurs.

1850 D. The corporation may file an amended annual report with the Commission indicating the filling of a
1851 vacancy.

1852 **§ 13.1-864. Meetings of the board of directors.**

1853 A. The board of directors may hold regular or special meetings in or out outside of the Commonwealth.

1854 B. Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit any
1855 or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of,
1856 any means of communication by which all directors participating may simultaneously hear each other during

1857 the meeting. A director participating in a meeting by this means is deemed to be present in person at the
 1858 meeting.

§ 13.1-865. Action without meeting of board of directors.

1860 A. Except to the extent that the articles of incorporation or bylaws require that action by the board of
 1861 directors be taken at a meeting, action required or permitted by this chapter to be taken by the board of
 1862 directors may be taken without a meeting if each director signs a consent describing the action to be taken
 1863 and delivers it to the corporation. However, if expressly authorized in the articles of incorporation, action
 1864 required or permitted by this chapter to be taken by the board of directors may be taken without a meeting by
 1865 ~~fewer than all of the directors, but not less than the greater of (i) a majority of the directors in office or; (ii) a~~
 1866 ~~quorum of the directors; or (iii) the number of directors as required by the articles of incorporation or bylaws~~
 1867 ~~to approve such action if it were taken at a meeting, if the requisite number of directors sign a consent~~
 1868 ~~describing the action to be taken and deliver it to the corporation; except such action shall not be permitted to~~
 1869 ~~be taken without a meeting if any director objects to the taking of such proposed action. To be effective, such~~
 1870 ~~objection shall have been delivered to the corporation no later than ten business days after notice of the~~
 1871 ~~proposed action is given. The corporation shall promptly notify each director of any such objection. Any~~
 1872 ~~actions taken without a meeting shall comply with any voting requirements established in the articles of~~
 1873 ~~incorporation or bylaws. If corporate action is to be taken under this subsection by fewer than all of the~~
 1874 ~~directors, For an action by directors by less than unanimous written consent to be valid, (i) the corporation~~
 1875 ~~shall give written notice of to each director describing the proposed corporate action; to be taken by written~~
 1876 ~~consent not less than 10 business days before the action is taken; or such longer period as may be required by~~
 1877 ~~the articles of incorporation or bylaws; to all directors and (ii) prior to the taking of such action, no director~~
 1878 ~~shall have objected to the corporation to the taking of such action without a meeting. The corporation shall~~
 1879 ~~promptly notify each director of any such objection. The notice shall contain or be accompanied by a~~
 1880 ~~description of the action to be taken. Notwithstanding any provision of this subsection, corporate action may~~
 1881 ~~not be taken by fewer than all of the directors without a meeting if the action also requires adoption by or~~
 1882 ~~approval of the members.~~

1883 B. Action taken under this section is effective when the last director, or the last director sufficient to
 1884 satisfy the requirements of subsection A if action by fewer than all of the directors is authorized, signs the
 1885 consent, unless the consent specifies a different effective date, in which event the action taken is effective as
 1886 of the date specified therein provided the consent states the date of execution by each director.

1887 C. A director's consent may be withdrawn by a revocation signed by the director and delivered to the
 1888 corporation prior to delivery to the corporation of unrevoked written consents signed by the requisite number
 1889 of directors.

1890 D. Any person, whether or not then a director, may provide that a consent to action as a director shall be
 1891 effective at a future time, including the time when an event occurs, but such future time shall not be more
 1892 than 60 days after such provision is made. Any such consent shall be deemed to have been made for purposes
 1893 of this section at the future time so specified for the consent to be effective, provided that (i) the person is a
 1894 director at such future time and (ii) the person did not revoke the consent prior to such future time. Any such
 1895 consent may be revoked, in the manner provided in subsection C, prior to its becoming effective.

1896 E. For purposes of this section, a written consent *or an objection to taking action* and the signing thereof
 1897 may be accomplished by one or more electronic transmissions.

1898 F. A consent signed under this section has the effect of action taken at a meeting of the board of directors
 1899 and may be described as such in any document.

§ 13.1-867. Waiver of notice by director.

1900 A. A director may waive any notice required by this *Act chapter*, the articles of incorporation, or bylaws
 1901 before or after the date and time stated in the notice, and such waiver shall be equivalent to the giving of such
 1902 notice. Except as provided in subsection B of this section, the waiver shall be in writing, signed by the
 1903 director entitled to the notice, and *filed delivered to the corporation's secretary for filing by the corporation*
 1904 with the minutes of the meeting or corporate records.

1905 B. A director's attendance at or participation in a meeting waives any required notice to him of the
 1906 meeting unless the director at the beginning of the meeting, or promptly upon *his* the director's arrival,
 1907 objects to holding the meeting or transacting business at the meeting and does not *thereafter, after objecting,*
 1908 vote for or assent to action taken at the meeting.

§ 13.1-868. Quorum and voting by directors.

1909 A. Unless the articles of incorporation or bylaws require a greater or lesser number for the transaction of
 1910 all business or any particular business, or unless otherwise specifically provided in this *Act chapter*, a
 1911 quorum of a the board of directors consists of:

1912 1. A majority of the fixed number of directors *with the right to vote* if the corporation has a fixed board
 1913 size; or

1914 2. A majority of the number of directors prescribed, or if no number is prescribed, the number in office
 1915 immediately before the meeting begins, if the corporation has a variable-range size board.

1916 B. The articles of incorporation or bylaws may authorize a quorum of a board of directors to consist of no

1919 fewer than one-third of the *specified or fixed or prescribed* number of directors determined under subsection
1920 A.

1921 C. If a quorum is present when a vote is taken, the affirmative vote of a majority of directors *with the right*
1922 *to vote* present is the act of the board of directors unless (i) the articles of incorporation or bylaws require the
1923 vote of a greater number of directors or (ii) *expressly provided otherwise in this chapter*.

1924 D. A director who is present at a meeting of the board of directors or a committee of the board of directors
1925 when corporate action is taken is deemed to have assented to the action taken unless:

1926 1. The director objects at the beginning of the meeting, or promptly upon *his such director's* arrival, to
1927 holding it or transacting specified business at the meeting; or

1928 2. *He votes against, or abstains* *The director's dissent or abstention from*; the action taken is *entered in the*
1929 *minutes of the meeting; or*

1930 3. *The director delivers written notice of such director's dissent or abstention to the presiding officer of*
1931 *the meeting before its adjournment or to the secretary of the corporation or meeting immediately after*
1932 *adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in*
1933 *favor of the action taken.*

1934 E. Except as *may be provided in an agreement authorized by § 13.1-852.1*, a director shall not vote by
1935 proxy.

1936 F. Whenever this *Act chapter* requires the board of directors to take any action or to recommend or
1937 approve any proposed corporate act, such action, recommendation or approval shall not be required if the
1938 proposed action or corporate act is adopted by the unanimous consent of members.

1939 **§ 13.1-869. Committees.**

1940 A. Unless the articles of incorporation or bylaws provide otherwise, a board of directors may *create*
1941 *establish one or more committees and appoint members* of the board of directors to *serve on them*. *Each*
1942 *committee shall have two or more members, who serve perform functions of the board of directors and*
1943 *appoint two or more directors to serve on each committee. While non-board members may also be appointed*
1944 *to a committee, they shall not vote on any matter for which the committee is performing a function of the*
1945 *board of directors. Each committee member serves at the pleasure of the board of directors.*

1946 B. The creation of a committee and appointment of directors to it shall be approved by the greater number
1947 of (i) a majority of all the directors in office when the action is taken, or (ii) the number of directors required
1948 by the articles of incorporation or bylaws to take action under § 13.1-868.

1949 C. Sections 13.1-864 through 13.1-868, which govern meetings, action without meetings, notice and
1950 waiver of notice, and quorum and voting requirements of the board of directors, apply to committees and
1951 their members as well.

1952 D. To the extent specified by the board of directors or in the articles of incorporation or bylaws, each
1953 committee may exercise the authority of the board of directors under § 13.1-853, except that a committee
1954 may not:

1955 1. Approve or *recommend propose* to members action that this *Act chapter* requires to be approved by
1956 members;

1957 2. Fill vacancies on the board or on any of its committees;

1958 3. Amend the articles of incorporation pursuant to § 13.1-885;

1959 4. Adopt, amend, or repeal the bylaws; or

1960 5. Approve a plan of merger not requiring member approval.

1961 E. *The creation of, delegation of authority to, or action by a committee does not alone constitute*
1962 *compliance by a director with the standards of conduct described in § 13.1-870.*

1963 F. The board of directors may appoint one or more directors as alternate members of any committee to
1964 replace any absent or disqualified member during the member's absence or disqualification. Unless the
1965 articles of incorporation, the bylaws, or the resolution *creating of the board of directors establishing* the
1966 committee provides otherwise, in the event of the absence or disqualification of a member of a committee
1967 *when there are no alternate members appointed by the board of directors*, the member or members of the
1968 committee present at any meeting and not disqualified from voting may *unanimously* by *unanimous action*
1969 appoint another director to act in place of the absent or disqualified member *during such member's absence*
1970 *or disqualification.*

1971 F. A corporation may establish or authorize the establishment of one or more advisory committees whose
1972 members need not be directors. An advisory committee (i) is not a committee of the board of directors, (ii)
1973 shall not exercise any of the powers of the board of directors, and (iii) shall have no fiduciary duties or other
1974 responsibility to the corporation.

1975 **§ 13.1-870. General standards of conduct for directors.**

1976 A. A director shall discharge his duties as a director, including his duties as a member of a committee, in
1977 accordance with his good faith business judgment of the best interests of the corporation.

1978 B. Unless a director has knowledge or information concerning the matter in question that makes reliance
1979 unwarranted, a the director is entitled to rely on information, opinions, reports or statements, including
1980 financial statements and other financial data, if prepared or presented by:

1. One or more officers or employees of the corporation whom the director believes, in good faith, to be reliable and competent in the matters presented;

2. Legal counsel, public accountants, or other persons as to matters the director believes, in good faith, are within the person's professional or expert competence; or

3. A committee of the board of directors of which the director is not a member if the director believes, in good faith, that the committee merits confidence.

C. A director is not liable for any action taken as a director, or any failure to take any action, if he performed the duties of his office in compliance with this section.

D. A person alleging a violation of this section has the burden of proving the violation.

§ 13.1-870.1. Limitation on liability of officers and directors; exception.

A. In any proceeding brought by or in the right of a corporation or brought by or on behalf of members of the corporation, the damages assessed against an officer or director arising out of a single transaction, occurrence, or course of conduct shall not exceed the lesser of:

1. The monetary amount, including the elimination of liability, specified in the articles of incorporation or, if approved by the members, in the bylaws as a limitation on or elimination of the liability of the officer or director; or

2. The greater of (i) \$100,000, or (ii) the amount of the cash compensation received by the officer or director from the corporation during the 12 months immediately preceding the act or omission for which liability was imposed.

B. In any proceeding against an officer or director who receives compensation from a corporation exempt from income taxation under § 501(c) of the Internal Revenue Code for his services as such, the damages assessed arising out of a single transaction, occurrence or course of conduct shall not exceed the amount of compensation received by the officer or director from the corporation during the 12 months immediately preceding the act or omission for which liability was imposed. An officer or director who serves such an exempt corporation without compensation for his services shall not be liable for damages in any such proceeding. The immunity provided by this subsection shall survive any termination, cancellation, or other discontinuance of the corporation.

C. The liability of an officer or director shall not be limited as provided in this section if the officer or director engaged in willful misconduct or a knowing violation of the criminal law.

D. No limitation on or elimination of liability adopted pursuant to this section may be affected by any amendment of the articles of incorporation or bylaws with respect to any act or omission occurring before such amendment.

E. 1. Notwithstanding the provisions of this section, in any proceeding against an officer or director who receives compensation from a community association for his services, the damages assessed arising out of a single transaction, occurrence or course of conduct shall not exceed the amount of compensation received by the officer or director from the association during the 12 months immediately preceding the act or omission for which liability was imposed. An officer or director who serves such an association without compensation for his services shall not be liable for damages in any such proceeding.

2. The liability of an officer or director shall not be limited as provided in this subsection if the officer or director engaged in willful misconduct or a knowing violation of the criminal law.

3. As used in this subsection, "community association" shall mean a corporation incorporated under this *Act chapter* that owns or has under its care, custody or control real estate subject to a recorded declaration of covenants which obligates a person, by virtue of ownership of specific real estate, to be a member of the incorporated association.

4. The immunity provided by this subsection shall survive any termination, cancellation, or other discontinuance of the community association.

§ 13.1-871. Director conflict of interests.

A. A conflict of interests transaction is a transaction with the corporation in which a director of the corporation has an interest that precludes him from being a disinterested director. A conflict of interests transaction is not voidable by the corporation solely because of the director's interest in the transaction if any one of the following is true:

1. The material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board of directors and the board of directors or committee authorized, approved or ratified the transaction;

2. The material facts of the transaction and the director's interest were disclosed to the members entitled to vote and they authorized, approved or ratified the transaction; or

3. The transaction was fair to the corporation.

B. For purposes of subdivision A 1, a conflict of interests transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the disinterested directors on the board of directors, or on the committee. A transaction shall not be authorized, approved, or ratified under this section by a single director. If a majority of the disinterested directors vote to authorize, approve or ratify the transaction, a quorum is

2042 present for the purpose of taking action under this section. The presence of, or a vote cast by, a director who
2043 is not disinterested does not affect the validity of any action taken under subdivision A 1 if the transaction is
2044 otherwise authorized, approved or ratified as provided in that subsection.

2045 C. For purposes of subdivision A 2, a conflict of interests transaction is authorized, approved, or ratified if
2046 it receives the vote of a majority of the votes entitled to be counted under this subsection. The votes
2047 controlled by a director who is not disinterested may not be counted in a vote of members to determine
2048 whether to authorize, approve, or ratify a conflict of interests transaction under subdivision A 2. The
2049 director's votes, however, may be counted in determining whether the transaction is approved under other
2050 sections of this *Act chapter*. A majority of the members, whether or not present, that are entitled to be
2051 counted in a vote on the transaction under this subsection constitutes a quorum for the purpose of taking
2052 action under this section.

2053 **§ 13.1-871.2. Liability for unlawful distributions.**

2054 A. A director who votes for or assents to a distribution in excess of what may be authorized and made
2055 pursuant to this chapter, the articles of incorporation, or the bylaws is personally liable to the corporation
2056 and its creditors for the amount of the distribution that exceeds what could have been distributed without
2057 violating this chapter, the articles of incorporation, or the bylaws provided that the party asserting liability
2058 establishes that when taking the action the director did not comply with § 13.1-870.

2059 B. A director held liable for an unlawful distribution under subsection A is entitled to:

2060 1. Contribution from every other director who could be held liable under subsection A for the unlawful
2061 distribution; and

2062 2. Recoupment from the members who received the unlawful distribution in proportion to the amounts of
2063 such unlawful distribution received by them respectively.

2064 C. No suit shall be brought against any director for any liability imposed by subsection A except within
2065 two years after the right of action shall accrue.

2066 D. Contribution or recoupment under subsection B is barred unless it is commenced within one year after
2067 the liability of the claimant has been finally adjudicated under subsection A.

2068 **§ 13.1-872. Required officers.**

2069 A. Except as provided in an agreement authorized by § 13.1-852.1, a corporation shall have such officers
2070 with such titles and duties as shall be ~~stated~~ described in the articles of incorporation or bylaws or in a
2071 resolution of the board of directors that is ~~not inconsistent~~ in accordance with the articles of incorporation or
2072 bylaws and as may be necessary to enable it to execute documents that comply with subsection F E of
2073 § 13.1-804.

2074 B. The Officers shall be elected by the board of directors ~~may elect individuals to fill one or more offices~~
2075 of the corporation. An, except that an officer may appoint one or more officers or assistant officers if
2076 authorized by the bylaws or the board of directors.

2077 C. The secretary of the corporation or any other officer as designated in the bylaws or by resolution of the
2078 board shall have responsibility for preparing and maintaining custody of the minutes of the directors' and
2079 members' meetings and for maintaining and authenticating the records of the corporation required to be kept
2080 under subsection E of § 13.1-932.

2081 D. The same individual may simultaneously hold more than one office in the corporation.

2082 E. Election or appointment of an officer does not of itself create any contract rights in the officer or the
2083 corporation.

2084 **§ 13.1-873. Duties of officers.**

2085 A. Each officer has the authority and shall perform the duties set forth in the articles of incorporation or
2086 bylaws or, to the extent consistent with the bylaws, the duties prescribed by the board of directors or by
2087 direction of an officer authorized by the board of directors to prescribe the duties of other officers.

2088 B. In discharging his duties, an officer who does not have knowledge that makes reliance unwarranted is
2089 entitled to rely on:

2090 1. The performance of properly delegated responsibilities by one or more employees of the corporation
2091 whom the officer believes in good faith to be reliable and competent in performing the responsibilities
2092 delegated; or

2093 2. Information, opinions, reports or statements, including financial statements and other financial data,
2094 prepared or presented by one or more employees of the corporation whom the officer believes in good faith
2095 to be reliable and competent in the matters presented or by legal counsel, public accountants, or other
2096 persons retained by the corporation as to matters involving skills or expertise the officer believes in good
2097 faith are matters (i) within the particular person's professional or expert competence or (ii) as to which the
2098 particular person merits confidence.

2099 **§ 13.1-874. Resignation and removal of officers.**

2100 A. An officer may resign at any time by delivering a written notice to the ~~corporation~~ board of directors,
2101 its chair, the appointing officer, if any, or the corporation's secretary. A resignation is effective when the
2102 notice is delivered unless the notice specifies a later effective time. If a resignation is made effective at a later
2103 time, the ~~corporation~~ provides for a delayed effectiveness. If effectiveness is stated to be delayed and the

2104 *board of directors or appointing officer, if any, accepts the delay, the board of directors or appointing*
 2105 *officer, if any, may fill the pending vacancy before the effective time if the successor does delayed*
 2106 *effectiveness; however, the new officer shall not take office until the effective time vacancy occurs.*

2107 *B. A board of directors may remove any An officer may be removed at any time with or without cause and*
 2108 *any officer or assistant officer, if appointed by another officer, may likewise be removed by such officer.*
 2109 *Election or appointment of an officer shall not of itself create any contract rights in the officer or the*
 2110 *corporation by (i) the board of directors; (ii) the appointing officer, if any, unless the bylaws or the board of*
 2111 *directors provide otherwise; or (iii) any other officer if authorized by the articles of incorporation, bylaws, or*
 2112 *board of directors. An officer's removal does not affect such officer's contract rights, if any, with the*
 2113 *corporation. An officer's resignation does not affect the corporation's contract rights, if any, with the officer.*

2114 *C. Any person who has resigned as an officer of a corporation, or whose name is incorrectly on file with*
 2115 *of record in the office of the clerk of the Commission as an officer of a corporation, may file a statement to*
 2116 *that effect with the Commission.*

2117 *D. Upon the resignation or removal of an officer, the corporation may file an amended annual report with*
 2118 *the Commission indicating the resignation or removal of the officer and the successor in office, if any.*

2119 *E. As used in this section, "appointing officer" means an officer, including any successor to that officer,*
 2120 *who, in accordance with subsection B of § 13.1-872, appointed the officer who is resigning or being removed.*

2121 **§ 13.1-875. Definitions.**

2122 *In As used in this article:*

2123 *"Corporation" includes any domestic corporation and any domestic or foreign predecessor entity of a*
 2124 *domestic corporation in a merger or other transaction in which the predecessor's existence ceased upon*
 2125 *consummation of the transaction.*

2126 *"Director" or "officer" means an individual who is or was a director or officer, respectively, of a*
 2127 *corporation or who, while a director or officer of the corporation, is or was serving at the corporation's*
 2128 *request as a director, officer, manager, partner, trustee, employee, or agent of another foreign or domestic*
 2129 *corporation, limited liability company, partnership, joint venture, trust, entity or employee benefit plan, or*
 2130 *other entity. A director or officer is considered to be serving an employee benefit plan at the corporation's*
 2131 *request if such person's duties to the corporation also impose duties on, or otherwise involve services by, such*
 2132 *person to the plan or to participants in or beneficiaries of the plan. "Director" or "officer" includes, unless the*
 2133 *context requires otherwise, the estate or personal representative of a director or officer.*

2134 *"Expenses" includes counsel fees.*

2135 *"Liability" means the obligation to pay a judgment, settlement, penalty, fine, including any excise tax*
 2136 *assessed with respect to an employee benefit plan, or reasonable expenses incurred with respect to a*
 2137 *proceeding.*

2138 *"Official capacity" means, (i) when used with respect to a director, the office of director in a corporation;*
 2139 *or and (ii) when used with respect to an officer, as contemplated in § 13.1-881, the office in a corporation*
 2140 *held by the officer. "Official capacity" does not include service for any other foreign or domestic corporation*
 2141 *or any partnership, joint venture, trust, entity or employee benefit plan, or other entity.*

2142 *"Party" means an individual who was, is, or is threatened to be made a named defendant or respondent in*
 2143 *a proceeding.*

2144 *"Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil,*
 2145 *criminal, administrative, arbitrative, or investigative and whether formal or informal.*

2146 **§ 13.1-876. Authority to indemnify.**

2147 *A. Except as provided in subsection D, a corporation may indemnify an individual made who is a party to*
 2148 *a proceeding because the individual is or was a director against liability incurred in the proceeding if the*
 2149 *director:*

2150 *1. Conducted The director:*

2151 *a. Conducted himself in good faith;*

2152 *2. b. Believed:*

2153 *a. (1) In the case of conduct in his official capacity with the corporation, that his conduct was in its best*
 2154 *interests; and*

2155 *b. (2) In all other cases, that his conduct was at least not opposed to its best interests; and*

2156 *3. c. In the case of any criminal proceeding, that he had no reasonable cause to believe that his conduct*
 2157 *was unlawful; or*

2158 *2. The director engaged in conduct for which broader indemnification has been made permissible or*
 2159 *obligatory as authorized by subsection C of § 13.1-883.*

2160 *B. A director's conduct with respect to an employee benefit plan for a purpose he believed to be in the*
 2161 *interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of*
 2162 *subdivision A 2 1 b (2).*

2163 *C. The termination of a proceeding by judgment, order, settlement or conviction, or upon a plea of nolo*
 2164 *contendere or its equivalent, is not, of itself, determinative that the director did not meet the relevant standard*
 2165 *of conduct described in this section.*

2166 D. Unless ordered by a court under subsection C of § 13.1-879.1, or broader indemnification has been
2167 made permissible or obligatory as authorized by subsection C of § 13.1-883, a corporation ~~may~~ shall not
2168 indemnify a director under this section:

2169 1. In connection with a proceeding by or in the right of the corporation except for reasonable expenses
2170 incurred in connection with the proceeding if it is determined that the director has met the relevant standard
2171 under subsection A; or

2172 2. In connection with any other proceeding charging improper personal benefit to the director, whether or
2173 not involving action in his official capacity, in which he was adjudged liable on the basis that personal benefit
2174 was improperly received by him.

2175 **§ 13.1-877. Mandatory indemnification.**

2176 Unless limited by its articles of incorporation or bylaws, a corporation shall indemnify a director who
2177 entirely prevails was wholly successful, on the merits or otherwise, in the defense of any proceeding to which
2178 he such director was a party because he such director is or was a director of the corporation against
2179 reasonable expenses incurred by him such director in connection with the proceeding.

2180 **§ 13.1-878. Advance for expenses.**

2181 A. A corporation may, before final disposition of a proceeding, advance funds to pay for or reimburse the
2182 reasonable expenses incurred in connection with a proceeding by a director who is a party to a proceeding in
2183 advance of final disposition of the proceeding because the individual is a director if the director furnishes
2184 delivers to the corporation a signed written undertaking, executed personally or on his behalf, to repay any
2185 funds advanced if he (i) the director is not entitled to mandatory indemnification under § 13.1-877 and (ii) it
2186 is ultimately determined under § 13.1-879.1 or 13.1-880 that he has not met the relevant standard of conduct
2187 the director is not entitled to indemnification.

2188 B. The undertaking required by subsection A shall be an unlimited general obligation of the director but
2189 need not be secured and may be accepted without reference to the financial ability of the director to make
2190 repayment.

2191 C. Authorizations of payments under this section shall be made by:

2192 1. The board of directors:

2193 a. If there are two or more disinterested directors, by a majority vote of all the disinterested directors, a
2194 majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a
2195 committee consisting solely of two or more disinterested directors appointed by such a vote; or

2196 b. If there are fewer than two disinterested directors, by the vote necessary for action by the board of
2197 directors in accordance with subsection C of § 13.1-868, in which authorization directors who do not qualify
2198 as disinterested directors may participate; or

2199 2. The members, but any membership interest under the control of a director who at the time does not
2200 qualify as a disinterested director may not be voted on the authorization.

2201 **§ 13.1-879.1. Court orders for advances, reimbursement or indemnification.**

2202 A. An individual who is made a party to a proceeding because he is a director of the corporation may
2203 apply to a court for an order directing the corporation to make advances or reimbursement for expenses, or to
2204 provide indemnification. Such application may be made for indemnification or an advance of expenses to the
2205 court conducting the proceeding or to another court of competent jurisdiction. After receipt of an application
2206 and after giving any notice it considers necessary, the court shall:

2207 1. Order indemnification if the court determines that the director is entitled to mandatory indemnification
2208 under § 13.1-877;

2209 2. Order indemnification or advance for expenses if the court determines that the director is entitled to
2210 indemnification or advance for expenses pursuant to a provision authorized by § 13.1-883; or

2211 3. Order indemnification or advance for expenses if the court determines, in view of all the relevant
2212 circumstances, that it is fair and reasonable (i) to indemnify the director or (ii) to advance expenses to the
2213 director, even if, in the case of clause (i) or (ii), the director has not met the relevant standard of conduct set
2214 forth in subsection A of § 13.1-876, failed to comply with § 13.1-878, or was adjudged liable in a proceeding
2215 referred to in subsection D of § 13.1-876; however, if the director was adjudged so liable, indemnification
2216 shall be limited to expenses incurred in connection with the proceeding.

2217 B. The court shall order the corporation to make advances, reimbursement, or both, for expenses or to
2218 provide indemnification if it. If the court determines that the director is entitled to such advances,
2219 reimbursement or indemnification and under subdivision A 1 or to indemnification or advance for expenses
2220 under subdivision A 2, it shall also order the corporation to pay the director's reasonable expenses incurred to
2221 obtain the order in connection with obtaining court-ordered indemnification or advance for expenses. If the
2222 court determines that the director is entitled to indemnification or advance for expenses under subdivision A
2223 3, it may

2224 C. With respect to a proceeding by or in the right of the corporation, the court may (i) order
2225 indemnification of the director to the extent of the director's reasonable expenses if it determines that,
2226 considering all the relevant circumstances, the director is entitled to indemnification even though he was
2227 adjudged liable to the corporation and (ii) also order the corporation to pay the director's reasonable expenses

2228 incurred to obtain the order of court-ordered indemnification or advance for expenses.

2229 D. C. Neither (i) the failure of the corporation, including its board of directors, its independent legal
2230 counsel and its members, to have made an independent a determination prior to the commencement of any
2231 action permitted by this section that the applying director is entitled to receive advances an advance, reimbursement, or both indemnification, nor (ii) the determination by the corporation, including its board of
2232 directors, its independent legal counsel and its members, that the applying director is not entitled to receive
2233 advances and/or an advance, reimbursement, or indemnification shall create a presumption to that effect or
2234 otherwise of itself be a defense to that director's application for advances an advance for expenses, reimbursement, or indemnification.

§ 13.1-880. Determination and authorization of indemnification.

2235 A. A corporation may shall not indemnify a director under § 13.1-876 unless authorized in the for a
2236 specific ease proceeding after a determination has been made that indemnification of the director is
2237 permissible because he the director has met the relevant standard of conduct set forth in § 13.1-876.

2238 B. The determination shall be made:

2239 1. If there are two or more disinterested directors, by the board of directors by a majority vote of all the
2240 disinterested directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the
2241 members of a committee of two or more disinterested directors appointed by such a vote;

2242 2. By special legal counsel:

2243 a. Selected in the manner prescribed in subdivision 1 of this subsection; or
2244 b. If there are fewer than two disinterested directors, selected by the board of directors, in which selection
2245 directors who do not qualify as disinterested directors may participate; or

2246 3. By the members with the right to vote, but membership interests under the control of a director who at
2247 the time does not qualify as a disinterested director may not be voted on the determination.

2248 C. Authorization of indemnification shall be made in the same manner as the determination that
2249 indemnification is permissible, except that if there are fewer than two disinterested directors or if the
2250 determination is made by special legal counsel, authorization of indemnification shall be made by those
2251 entitled under subdivision B 2 to select counsel.

§ 13.1-881. Advances for expenses and indemnification of officers.

2252 Unless limited by a corporation's articles of incorporation:

2253 1. An officer of the corporation who is party to a proceeding because the individual is an officer is
2254 entitled to mandatory indemnification under § 13.1-877, and is entitled to apply for court-ordered advance or
2255 reimbursement of expenses and indemnification under § 13.1-879.1, in each case to the same extent as a
2256 director; and

2257 2. The corporation may indemnify and advance expenses under this article to an officer of the corporation
2258 who is a party to the proceeding because the individual is an officer to the same extent as to a director.

§ 13.1-882. Insurance.

2259 A corporation may purchase and maintain insurance on behalf of an individual who is or was a director or
2260 officer of the corporation, or who, while a director or officer of the corporation, is or was serving at the
2261 request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or
2262 domestic corporation, limited liability company, partnership, joint venture, trust, employee benefit plan or
2263 other entity, against liability asserted against or incurred by such person individual in that capacity or arising
2264 from his such individual's status as a director or officer, regardless of whether or not the corporation would
2265 have power to indemnify him or advance expenses to the individual against the same liability under
2266 § 13.1-876 or 13.1-877 this article.

§ 13.1-883. Application of article.

2267 A. Unless the articles of incorporation or bylaws expressly provide otherwise, any authorization of
2268 indemnification or advances or reimbursement of expenses in the articles of incorporation or bylaws shall not
2269 be deemed to prevent the corporation from providing the indemnity or advances or reimbursement of
2270 expenses permitted or mandated by this article.

2271 B. A corporation, by a provision in its articles of incorporation or bylaws or in a resolution adopted or
2272 contract approved by its board of directors or members, may obligate itself in advance of the act or omission
2273 giving rise to a proceeding to provide indemnification in accordance with § 13.1-876 and advance funds to
2274 pay for or reimburse expenses in accordance with § 13.1-878. Any such obligatory provision shall be deemed
2275 to satisfy the requirements for authorization referred to in subsection C of § 13.1-878 and subsection C of
2276 § 13.1-880.

2277 B. C. Any corporation shall have power to make any further indemnity, including indemnity with respect
2278 to a proceeding by or in the right of the corporation, and to make additional provision for advances and
2279 reimbursement of expenses, to any director or officer that may be authorized by the articles of incorporation
2280 or any bylaw made by the members or any resolution adopted, before or after the event, by the members with
2281 the right to vote, except an indemnity against (i) such person's willful misconduct, or (ii) a knowing violation
2282 of the criminal law. Any such provision that obligates the corporation to provide indemnification to the fullest
2283 extent permitted by law shall be deemed, unless the articles of incorporation or any such bylaw or resolution

2290 expressly provides otherwise, also to obligate the corporation to advance funds to pay for or reimburse
2291 expenses to the fullest extent permitted by law in accordance with § 13.1-878 except that the applicable
2292 standard shall be conduct that does not constitute willful misconduct or a knowing violation of criminal law,
2293 rather than the standard of conduct prescribed in § 13.1-876. Unless the articles of incorporation, or any such
2294 bylaw or resolution expressly provides otherwise, any determination as to the right to any further indemnity
2295 shall be made in accordance with subsection B of § 13.1-880. Each such indemnity may continue as to a
2296 person who has ceased to have the capacity referred to above and may inure to the benefit of the heirs,
2297 executors and administrators of such a person.

2298 **C. The provisions of this article and Article 8 (§ 13.1-853 et seq.) of this Act shall apply to the same**
2299 **extent to any cooperative organized under the Code of Virginia.**

2300 D. No right provided to any person pursuant to this section may of indemnification or advance for
2301 expenses created under this article and in effect at the time of an act or omission shall be reduced or,
2302 eliminated, or impaired by any amendment of the articles of incorporation or bylaws with respect to any act
2303 or omission occurring before such amendment or a resolution of the board of directors or members adopted
2304 after the occurrence of such act or omission unless, in the case of a right created under subsection B or C,
2305 the provision creating such right and in effect at the time of such act or omission explicitly authorizes such
2306 reduction, elimination, or impairment after such act or omission has occurred.

2307 E. No provision pursuant to subsection B shall obligate the corporation to indemnify or advance expenses
2308 to a director of a predecessor of the corporation, pertaining to conduct with respect to the predecessor,
2309 unless expressly provided otherwise. Any provision for indemnification or advance for expenses in the
2310 articles of incorporation or bylaws, or a resolution of the board of directors or members of a predecessor of
2311 the corporation in a merger or in a contract to which the predecessor is a party, existing at the time the
2312 merger takes effect, shall be governed by subdivision A 4 of § 13.1-897.

2313 F. This article does not limit a corporation's power to pay or reimburse expenses incurred by a director or
2314 an officer in connection with his appearance as a witness in a proceeding at a time when he is not a party.

2315 F. G. This article does not limit a corporation's power to indemnify, advance expenses to, or provide or
2316 maintain insurance on behalf of an employee or agent who is not a director or officer.

2317 H. *The provisions of this article and Article 8 (§ 13.1-853 et seq.) shall apply to the same extent to any*
2318 *cooperative organized under the Code of Virginia.*

2319 **§ 13.1-884. Authority to amend articles of incorporation.**

2320 A. A corporation may amend its articles of incorporation at any time to add or change a provision that is
2321 required or permitted in the articles or to delete a provision not required in the articles. Whether a provision is
2322 required or permitted in the articles of incorporation is determined as of the effective date of the amendment
2323 or to delete a provision not required to be contained in the articles of incorporation.

2324 B. A member of the corporation does not have a vested property right resulting from any provision in the
2325 articles of incorporation, including provisions relating to management, control, capital structure, purpose, or
2326 duration of the corporation.

2327 **§ 13.1-885. Amendment of articles of incorporation by directors.**

2328 A. Where there are no members, or no members having voting rights, an amendment shall be adopted at a
2329 meeting of by the board of directors as provided for in the articles of incorporation or, in the absence of such
2330 a provision, upon receiving the vote of at least two-thirds a majority of the directors in office. The board may
2331 adopt one or more amendments at any one meeting having voting rights.

2332 B. Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt one
2333 or more amendments to the corporation's articles of incorporation without member action:

- 2334 1. To delete the names and addresses of the initial directors;
- 2335 2. To delete the name of the initial registered agent or the address of the initial registered office, if a
2336 statement of change described in § 13.1-834 is on file with the Commission;
- 2337 3. To add, delete, or change a geographic attribution for the corporate name; or
- 2338 4. To make any other change expressly permitted by this Act chapter to be made without member action.

2339 **§ 13.1-886. Amendment of articles of incorporation by directors and members.**

2340 A. Where there are members having voting rights, except where member approval of an amendment of the
2341 articles of incorporation is not required by this Act chapter, an amendment to the articles of incorporation
2342 shall be adopted in the following manner:

- 2343 1. The proposed amendment shall be adopted by the board of directors;
- 2344 2. After adopting the proposed amendment, the board of directors shall submit the amendment to the
2345 members for their approval. The board of directors shall also transmit to the members a recommendation
2346 recommend that the members approve the amendment, unless the board of directors makes a determination
2347 that because of conflicts of interest or other special circumstances it should not make such a recommendation,
2348 in which case the board of directors shall transmit to inform the members of the basis for that determination;
2349 and
- 2350 3. The members entitled to vote on the amendment shall approve the amendment as provided in
2351 subsection D.

2352 B. The board of directors may ~~condition its submission of the proposed set conditions for approval of the~~
 2353 amendment ~~on any basis by the members or the effectiveness of the amendment.~~

2354 C. ~~If member approval is to be sought at a members' meeting, the corporation shall notify each~~
 2355 member entitled to vote of the proposed members' meeting in accordance with § 13.1-842. The notice of
 2356 meeting shall also state that the purpose, or one of the purposes, of the meeting is to consider the ~~proposed~~
 2357 amendment and ~~shall~~ contain or be accompanied by a copy of the amendment.

2358 D. Unless ~~this Act the articles of incorporation provide otherwise, or this chapter or the board of~~
 2359 directors, acting pursuant to subsection B, requires a greater vote, ~~approval of the amendment to be adopted~~
 2360 ~~shall be approved by~~ requires the approval of each voting group entitled to vote on the amendment by more
 2361 than two-thirds of all the votes cast by that voting group. The articles of incorporation may provide for a
 2362 greater or lesser vote than that provided for in this subsection or a vote by separate voting groups so long as
 2363 the vote provided for is not less than a majority of all the votes cast on the amendment by each voting group
 2364 entitled to vote on the amendment at a meeting at which a quorum of the voting group exists.

2365 E. ~~An amendment of the articles of incorporation may be further amended prior to the effective date of the~~
 2366 ~~certificate of amendment of the articles of incorporation; however, if the members are required by any~~
 2367 ~~provision of this chapter or the articles of incorporation to vote on the amendment of the articles of~~
 2368 ~~incorporation, the amendment of the articles of incorporation shall not be further amended subsequent to~~
 2369 ~~approval of the amendment by such members without the approval of the members.~~

2370 **§ 13.1-887. Voting on amendments by voting groups.**

2371 A. ~~Except as provided in the articles of incorporation or bylaws, if a corporation has more than one class~~
 2372 ~~of members with voting rights, the members of each class with voting rights are entitled to vote as a separate~~
 2373 ~~voting group, if member voting is otherwise required by this chapter, on a proposed amendment to the~~
 2374 ~~articles of incorporation if the amendment would:~~

2375 1. ~~Effect an exchange or reclassification of all or part of the memberships of the class into memberships~~
 2376 ~~of another class;~~

2377 2. ~~Effect an exchange or reclassification, or create the right of exchange, of all or part of the~~
 2378 ~~memberships of another class into memberships of the class;~~

2379 3. ~~Change the rights, preferences, or limitations of all or part of the memberships of the class in a manner~~
 2380 ~~different than the amendment would affect another class;~~

2381 4. ~~Change the rights, preferences, or limitations of all or part of the memberships of the class by changing~~
 2382 ~~the rights, preferences, or limitations of another class;~~

2383 5. ~~Increase or decrease the number of memberships authorized for that class;~~

2384 6. ~~Increase the number of memberships authorized for another class; or~~

2385 7. ~~Authorize a new class of memberships.~~

2386 B. ~~If a class of members with voting rights will be divided into two or more classes by an amendment to~~
 2387 ~~the articles of incorporation, the amendment shall be approved by a majority of the members of each class~~
 2388 ~~that will be created.~~

2389 C. ~~If a proposed amendment would affect less than all of the members of a class with voting rights in one~~
 2390 ~~or more of the ways described in subsection A of § 13.1-887, the members so affected are entitled to vote as a~~
 2391 ~~separate voting group on the proposed amendment.~~

2392 D. The articles of incorporation may provide that members of a class are entitled to vote as a separate
 2393 voting group on ~~any other~~ specified amendments of the articles of incorporation.

2394 **§ 13.1-887.1. Amendment prior to organization.**

2395 When ~~If~~ a corporation has not yet completed its organization, its board of directors or incorporators, in the
 2396 event that there is no board of directors, may adopt one or more amendments to the corporation's articles of
 2397 incorporation.

2398 **§ 13.1-888. Articles of amendment.**

2399 A. ~~A corporation amending its articles of incorporation shall file with the Commission articles of~~
 2400 ~~amendment setting~~ After an amendment of the articles of incorporation has been adopted and approved as
 2401 ~~required by this chapter, the corporation shall deliver to the Commission for filing articles of amendment that~~
 2402 ~~set forth:~~

2403 1. The name of the corporation;

2404 2. The text of each amendment adopted or the information required by subdivision E K 5 of § 13.1-804;

2405 3. The date of each amendment's adoption *or approval*;

2406 4. If an amendment (i) was adopted by the incorporators or the board of directors without member
 2407 approval, a statement that the amendment was duly ~~approved by the vote of at least two thirds of the~~ adopted
 2408 ~~by the board of directors in office~~ or by a majority of the incorporators, as the case may be, including the
 2409 reason that member and, if applicable, ~~director~~ board of directors approval was not required;

2410 5. If an amendment (ii) was approved by the members, either:

2411 a. A statement that the amendment was adopted by unanimous consent of the members; or

2412 b. A statement that the amendment was ~~proposed~~ adopted by the board of directors ~~and~~, was submitted
 2413 to the members in accordance with this ~~Act and article~~, and was duly approved by the members in the

2414 manner required by this chapter and by the articles of incorporation; or (iii) is being filed pursuant to
2415 subdivision K 5 of § 13.1-804, a statement of:

2416 (1) The existence of a quorum of each voting group entitled to vote separately on the amendment; and
2417 (2) Either the total number of votes cast for and against the amendment by each voting group entitled to
2418 vote separately on the amendment or the total number of undisputed votes cast for the amendment by each
2419 voting group and a statement that the number cast for the amendment by each voting group was sufficient for
2420 approval by that voting group to that effect.

2421 B. If the Commission finds that the articles of amendment comply with the requirements of law and that
2422 all required fees have been paid, it shall issue a certificate of amendment.

2423 **§ 13.1-889. Restated articles of incorporation.**

2424 A. A corporation's board of directors may restate its articles of incorporation at any time with or without
2425 member approval.

2426 B. The restatement may include one or more new amendments to the articles of incorporation. If the
2427 restatement includes a one or more new amendment amendments requiring member approval, it shall be
2428 adopted and approved as provided in § 13.1-886. If the restatement only includes an amendment one or more
2429 amendments that does do not require member approval, it shall be adopted as provided in § 13.1-885.

2430 C. If the board of directors submits a restatement for member approval, the corporation shall notify each
2431 member entitled to vote of the proposed members' meeting in accordance with § 13.1-842. The notice shall
2432 also state that the purpose, or one of the purposes, of the meeting is to consider the proposed restatement and
2433 contain or be accompanied by a copy of the restatement that identifies any new amendment it would make in
2434 the articles.

2435 D. A corporation restating its articles of incorporation shall file with the Commission articles of
2436 restatement setting forth:

2437 1. The name of the corporation immediately prior to restatement;
2438 2. Whether the restatement contains a new amendment to the articles of incorporation;
2439 3. The text of the restated articles of incorporation or amended and restated articles of incorporation, as
2440 the case may be;

2441 4. Information required by subdivision L K 5 of § 13.1-804;
2442 5. The date of the restatement's adoption;
2443 6. If the restatement does not contain a new amendment to the articles, a statement that the restatement
2444 was adopted by the board of directors adopted the restatement or approved by the members;

2445 7. If the restatement contains a new amendment to the articles not requiring member approval, the information required by subdivision A 4 of § 13.1-888 a statement that the restatement (i) was adopted by the
2446 board of directors without member approval pursuant to § 13.1-885 or subdivision K 5 of § 13.1-804, as the
2447 case may be; and

2448 8. If the restatement contains a new amendment to the articles requiring member approval, the information
2449 required by subdivision A 5 of § 13.1-888 a statement that the restatement (i) was adopted by unanimous
2450 consent of the members or (ii) was adopted by the board of directors, was submitted to the members in
2451 accordance with this article, and was duly approved by the members in the manner required by this chapter
2452 and the articles of incorporation.

2453 E. D. If the Commission finds that the articles of restatement comply with the requirements of law and
2454 that all required fees have been paid, it shall issue a certificate of restatement. When the certificate of
2455 restatement is effective, the restated articles of incorporation or amended and restated articles of
2456 incorporation supersede the original or previously restated articles of incorporation and all amendments to
2457 them.

2458 F. E. The Commission may certify restated articles of incorporation or amended and restated articles of
2459 incorporation as the articles of incorporation currently in effect.

2460 **§ 13.1-889.1. Abandonment of amendment or restatement of articles of incorporation.**

2461 A. After an amendment or restatement of the articles of incorporation has been adopted and approved as
2462 required by this article, and at any time before the certificate of amendment or restatement has become
2463 effective, the amendment or restatement of the articles of incorporation may be abandoned by the
2464 corporation without action by its members, if any, in the manner determined by the board of directors.

2465 B. If articles of amendment or restatement of the articles of incorporation are abandoned after they have
2466 been filed with the Commission but before the certificate of amendment or restatement of the articles of
2467 incorporation has become effective, a statement of abandonment shall be signed by the corporation and
2468 delivered to the Commission for filing prior to the effective date of the certificate of amendment or
2469 restatement of the articles of incorporation. If the Commission finds that the statement of abandonment
2470 complies with the requirements of law, it shall issue a certificate of abandonment, effective as of the date and
2471 time the statement of abandonment was received by the Commission, and the amendment or restatement of
2472 the articles of incorporation shall be deemed abandoned and shall not become effective.

2473 C. The statement of abandonment shall contain:

2474 1. The name of the corporation;

2476 2. *The date on which the articles of amendment or restatement of the articles of incorporation were filed*
 2477 *with the Commission;*
 2478 3. *The date and time on which the Commission's certificate of amendment or restatement becomes*
 2479 *effective; and*
 2480 4. *A statement that the amendment or restatement of the articles of incorporation is being abandoned in*
 2481 *accordance with this section.*

§ 13.1-891. Effect of amendment of articles of incorporation.

An amendment to the articles of incorporation does not affect a cause of action existing in favor of or against the corporation, a proceeding to which the corporation is a party, or the existing rights of persons other than members of the corporation. An amendment changing a corporation's name does not ~~abate~~ affect a proceeding brought by or against the corporation in its former name.

§ 13.1-892. Amendment of bylaws by board of directors or members.

A. *If a corporation has members with the right to vote, the members may amend or repeal the corporation's bylaws.*

B. A corporation's board of directors may amend or repeal the corporation's bylaws except to the extent that:

1. The articles of incorporation or § 13.1-893 reserves that power exclusively to the members; or
2. The members in repealing, adopting, or amending a bylaw expressly provide that the board of directors may not amend, repeal, or reinstate that bylaw.

§ 13.1-893. Bylaw provisions increasing quorum or voting requirements for directors.

A. A bylaw that increases a quorum or voting requirement for the board of directors may be amended or repealed:

1. If originally adopted by the members, only by the members, unless the bylaws otherwise provide; or
2. If adopted by the board of directors, either by the members or by the board of directors.

B. A bylaw adopted or amended by the members that increases a quorum or voting requirement for the board of directors may provide that it shall be amended or repealed only by a specified vote of either the members or the board of directors.

C. Action by the board of directors under subsection A to amend or repeal a bylaw that changes the quorum or voting requirement ~~applicable to meetings of~~ for the board of directors shall ~~be effective only if it meets~~ meet the same quorum requirement and is be adopted by the same vote required to take action under the quorum and voting requirement then in effect.

Article 11.

Mergers and Interest Exchanges.

§ 13.1-893.1. Definitions.

As used in this article:

"Acquired entity" means the domestic or foreign corporation or eligible entity that will have all of one or more classes of its membership interests or eligible interests acquired in an interest exchange.

"Acquiring entity" means the domestic or foreign corporation or eligible entity that will acquire all of one or more classes of membership interests or eligible interests of the acquired entity in an interest exchange.

"Merger" means a business combination pursuant to § 13.1-894.

"New interest holder liability" means interest holder liability of a person, resulting from a merger or interest exchange, that is (i) in respect of an entity that is different from the entity in which the person held membership interests or eligible interests immediately before the merger or interest exchange became effective or (ii) in respect of the same entity as the one in which the person held membership interests or eligible interests immediately before the merger or interest exchange became effective if (a) the person did not have interest holder liability immediately before the merger or interest exchange became effective or (b) the person had interest holder liability immediately before the merger or interest exchange became effective, the terms and conditions of which were changed when the merger or interest exchange became effective.

"Party to a merger" means any domestic or foreign corporation or eligible entity that will merge under a plan of merger. *Party to a merger does not include a survivor created by the merger.*

"Survivor" in a merger means the domestic or foreign corporation or the eligible entity into which one or more other domestic or foreign corporations or eligible entities are merged. A survivor of a merger may preexist the merger or be created by the merger.

§ 13.1-894. Merger.

A. One or more domestic corporations may merge with one or more domestic or foreign corporations or eligible entities pursuant to a plan of merger, or two or more foreign corporations or domestic or foreign eligible entities may merge, resulting in a survivor that is a domestic corporation created in the merger.

B. A foreign corporation or a foreign eligible entity may be a party to a merger with a domestic corporation, or may be created as the survivor of a merger in which a domestic corporation is a party but only if the merger is permitted by the organic law of the foreign corporation or eligible entity.

C. The plan of merger shall include:

1. As to each party to the merger, its name, jurisdiction of formation, and type of entity;

2538 2. The survivor's name, jurisdiction of formation, and type of entity, and, if the survivor is to be created in
2539 the merger, a statement to that effect;

2540 3. The terms and conditions of the merger;

2541 4. The manner and basis of converting the membership interests of each merging domestic or foreign
2542 corporation and eligible interests of each *merging* domestic or foreign eligible entity into membership
2543 interests, eligible interests or other securities, obligations, rights to acquire membership interests, eligible
2544 interests or other securities, cash or other property, or any combination of the foregoing;

2545 5. The manner and basis of converting any rights to acquire the membership interests of each merging
2546 domestic or foreign corporation and eligible interests of each merging domestic or foreign eligible entity into
2547 membership interests, eligible interests or other securities, obligations, rights to acquire membership interests,
2548 eligible interests or other securities, cash or other property, or any combination of the foregoing;

2549 6. Any amendment to the articles of incorporation of the survivor that is a domestic corporation or if the
2550 articles of incorporation are amended and restated, as an attachment to the plan, the survivor's restated articles
2551 of incorporation, or if a new domestic corporation is to be created by the merger, as an attachment to the plan,
2552 the survivor's articles of incorporation; and

2553 7. Any other provisions required by the laws under which any party to the merger is organized or by
2554 which it is governed or required by the articles of incorporation or organic ~~document~~ *rules* of any such party.

2555 D. In addition to the requirements of subsection C, a plan of merger may contain any other provision not
2556 prohibited by law.

2557 E. Terms of a plan of merger may be made dependent on facts objectively ascertainable outside the plan
2558 in accordance with subsection E K of § 13.1-804.

2559 F. Unless the plan of merger provides otherwise, a plan of merger may be amended prior to the effective
2560 time and date of the certificate of merger, but if the members of a domestic corporation that is a party to the
2561 merger are required by any provision of this chapter to vote on the plan, the plan may not be amended
2562 subsequent to approval of the plan by such members to change any of the following unless the amendment is
2563 subject to the approval of the members:

2564 1. The amount or kind of membership interests, eligible interests or other securities, obligations, rights to
2565 acquire membership interests, eligible interests or other securities, cash, or other property to be received
2566 under the plan by the members of or holders of eligible interests in any party to the merger;

2567 2. The articles of incorporation of any domestic corporation that will be the survivor of the merger, except
2568 for changes permitted by subsection B of § 13.1-885; or

2569 3. Any of the other terms or conditions of the plan if the change would adversely affect such members in
2570 any material respect.

2571 **§ 13.1-894.1. Interest exchange.**

2572 A. *Through an interest exchange:*

2573 1. *A domestic corporation may acquire all of the membership interests of one or more classes of members
2574 of another domestic or foreign corporation, or all of the eligible interests of one or more classes of eligible
2575 interests of a domestic or foreign eligible entity, as well as rights to acquire any such membership interests or
2576 eligible interests, in exchange for membership interests or other securities, eligible interests, obligations,
2577 rights to acquire membership interests, other securities or eligible interests, cash, other property, or any
2578 combination of the foregoing, pursuant to a plan of interest exchange; or*

2579 2. *All of the membership interests of one or more classes of members of a domestic corporation, as well as
2580 rights to acquire any such membership interests, may be acquired by another domestic or foreign
2581 corporation or other eligible entity, in exchange for membership interests or other securities, eligible
2582 interests, obligations, rights to acquire membership interests, other securities or eligible interests, cash, other
2583 property, or any combination of the foregoing, pursuant to a plan of interest exchange.*

2584 B. *A foreign corporation or eligible entity shall be a party to an interest exchange only if the interest
2585 exchange is permitted by the organic law under which the corporation or eligible entity is organized or by
2586 which it is governed.*

2587 C. *If the organic law or organic rules of a domestic eligible entity do not provide procedures for the
2588 approval of an interest exchange, a plan of interest exchange may be adopted and approved, and the interest
2589 exchange effectuated, in accordance with the procedures, if any, for a merger.*

2590 D. *The plan of interest exchange shall include:*

2591 1. *The name, jurisdiction of formation, and type of entity of each acquired entity and the name,
2592 jurisdiction of formation, and type of entity of the acquiring entity;*

2593 2. *The terms and conditions of the interest exchange;*

2594 3. *The manner and basis of exchanging membership interests of a domestic or foreign corporation or
2595 eligible interests in a domestic or foreign eligible entity whose membership interests or eligible interests will
2596 be acquired under the interest exchange into membership interests or other securities, eligible interests,
2597 obligations, rights to acquire membership interests, other securities or eligible interests, cash, other
2598 property, or any combination of the foregoing;*

2599 4. *The manner and basis for exchanging any rights to acquire membership interests of a domestic or*

2600 *foreign corporation or eligible interests in a domestic or foreign eligible entity whose membership interests*
 2601 *or eligible interests will be acquired under the interest exchange into membership interests or other*
 2602 *securities, eligible interests, obligations, rights to acquire membership interests, other securities or eligible*
 2603 *interests, cash, other property, or any combination of the foregoing; and*

2604 *5. Any other provisions required by the organic law governing any foreign corporation or eligible entity*
 2605 *that is a party to the interest exchange or its articles of incorporation or organic rules.*

2606 *E. In addition to the requirements of subsection D, the plan of interest exchange may contain any other*
 2607 *provision not prohibited by law.*

2608 *F. Terms of a plan of interest exchange may be made dependent on facts objectively ascertainable outside*
 2609 *the plan in accordance with subsection K of § 13.1-804.*

2610 *G. Unless the plan of interest exchange provides otherwise, the plan of interest exchange may be amended*
 2611 *prior to the effective date of the certificate of interest exchange, but if the members of a domestic corporation*
 2612 *that is a party to the interest exchange are required by any provision of this chapter to vote on the plan, the*
 2613 *plan shall not be amended subsequent to approval of the plan by such members to change any of the*
 2614 *following, unless the amendment is subject to the approval of the members:*

2615 *1. The amount or kind of membership interests or other securities, eligible interests, obligations, rights to*
 2616 *acquire membership interests, other securities or eligible interests, cash, or other property or any*
 2617 *combination of the foregoing to be issued by the corporation or to be received under the plan by the members*
 2618 *of the acquired entity; or*

2619 *2. Any of the other terms or conditions of the plan if the change would adversely affect such members in*
 2620 *any material respect.*

2621 *H. This section does not limit the power of a domestic corporation to acquire membership interests of*
 2622 *another domestic or foreign corporation or eligible interests in an eligible entity in a transaction other than*
 2623 *an interest exchange.*

2624 **§ 13.1-895. Action on plan of merger or interest exchange.**

2625 A. In the case of a domestic corporation that is (i) a party to a merger, ~~where the members of any merging~~
 2626 ~~corporation have voting rights the~~ (ii) *an acquired entity in an interest exchange, or (iii) the acquiring entity*
 2627 *in an interest exchange:*

2628 *1. The plan of merger or interest exchange shall first be adopted by the board of directors.*

2629 *2. Except as provided in subsection F, after adopting a plan of merger, the board of directors shall submit*
 2630 *the plan to the members for their approval.*

2631 The board of directors shall also transmit to the members a recommendation that the members approve the
 2632 plan, unless the board of directors makes a determination that because of conflicts of interest or other special
 2633 circumstances it should not make such a recommendation, in which case the board of directors shall ~~transmit~~
 2634 ~~to inform~~ the members of the basis for that determination.

2635 B. The board of directors may ~~condition its submission set conditions for the approval of the plan of~~
 2636 ~~merger to or interest exchange by the members on any basis or the effectiveness of the plan of merger or~~
 2637 *interest exchange.*

2638 C. If the plan of merger or interest exchange is required to be approved by the members, and if the
 2639 approval is to be given at a meeting, the corporation shall notify each member, whether or not entitled to
 2640 vote, of the meeting of members at which the plan is to be submitted for approval. The notice shall state that
 2641 the purpose, or one of the purposes, of the meeting is to consider the plan and *shall* contain or be
 2642 accompanied by a copy or summary of the plan. If the corporation is to be merged into an existing domestic
 2643 or foreign corporation or eligible entity and its members are to receive membership ~~or other~~ interests or other
 2644 ~~eligible interests or the right to receive membership interests or other eligible interests in the surviving~~
 2645 ~~corporation or eligible entity survivor, the notice shall also include or be accompanied by a copy or summary~~
 2646 ~~of the articles of incorporation and bylaws or organic document of that corporation or eligible entity rules of~~
 2647 ~~the survivor.~~ If the corporation is to be merged into a domestic or foreign corporation or eligible entity ~~that~~
 2648 ~~and a new domestic or foreign corporation or eligible entity is to be created pursuant to the merger and its~~
 2649 ~~members are to receive membership or other interests in the surviving corporation or eligible entity,~~ the
 2650 ~~notice shall include or be accompanied by a copy or a summary of the articles of incorporation and bylaws or~~
 2651 ~~organic document rules of the new domestic or foreign corporation or eligible entity.~~

2652 D. Unless the articles of incorporation or bylaws provide otherwise or the board of directors acting
 2653 pursuant to subsection B, requires a greater vote, *approval of the plan of merger to be authorized shall be*
 2654 *approved by or interest exchange requires the approval of each voting group entitled to vote on the plan by*
 2655 *more than two-thirds of all the votes entitled to be cast by that voting group at a meeting at which a quorum*
 2656 *of the voting group exists.* The articles of incorporation or the bylaws may provide for a greater or lesser vote
 2657 than that provided for in this subsection or a vote by separate voting groups so long as the vote provided for is
 2658 not less than a majority of all the votes cast on the plan by each voting group entitled to vote on the
 2659 *transaction plan of merger or interest exchange at a meeting at which a quorum of the voting group exists.*

2660 E. Separate voting by voting groups is required:

2661 1. *On Except as otherwise provided in the articles of incorporation or bylaws, on a plan of merger by*

2662 each class of members *that*:

2663 a. ~~Whose membership interests are~~ *Is* to be converted under the plan of merger into membership interests
2664 ~~in a different domestic or foreign corporation, or, other securities, eligible interests or other securities,~~
2665 obligations, rights to acquire membership interests, ~~other securities, eligible interests or other securities,~~ cash,
2666 other property, or any combination of the foregoing, *or is proposed to be eliminated without being converted*
2667 *into any of the foregoing;* or

2668 b. ~~Who would~~ *Would* be entitled to vote as a separate group on a provision in the plan that, if contained in
2669 a proposed amendment to the articles of incorporation, would require action by separate voting groups under
2670 § 13.1-887.;

2671 2. *Except as otherwise provided in the articles of incorporation, on a plan of interest exchange, by each*
2672 *class of members included in the exchange, with each class constituting a separate voting group;*

2673 3. On a plan of merger, if the voting group is entitled under the articles of incorporation to vote as a voting
2674 group to approve a plan of merger; and

2675 4. *On a plan of interest exchange, if the voting group is entitled under the articles of incorporation to vote*
2676 *as a voting group to approve a plan of interest exchange.*

2677 F. Unless the articles of incorporation otherwise provide, approval by the corporation's members of a plan
2678 of merger *or interest exchange* is not required if:

2679 1. The corporation will survive the merger *or is the acquiring corporation in an interest exchange;*
2680 2. Except for amendments permitted by ~~subsection B of~~ § 13.1-885, its articles of incorporation will not
2681 be changed; and

2682 3. Each ~~person who is~~ *member* of the corporation *whose membership interests were outstanding*
2683 *immediately before the effective time of the merger or interest exchange will retain hold the same*
2684 *membership interest interests with identical designation, preferences, limitations, and rights immediately*
2685 *after the effective time of the merger or interest exchange.*

2686 G. *Where any merging If a corporation has no members, or no members having voting rights, a plan of*
2687 *merger shall be adopted at a meeting of the board of directors of such corporation upon receiving the vote of*
2688 *a majority of the directors in office not yet issued membership interests and its articles of incorporation or*
2689 *bylaws do not otherwise provide, its board of directors may adopt and approve a plan of merger or interest*
2690 *exchange on behalf of the corporation without member action.*

2691 H. If as a result of a merger *or interest exchange* one or more members of a domestic corporation would
2692 become subject to ~~owner~~ *new interest holder* liability for the debts, obligations, or liabilities of any other
2693 person or entity, approval of the plan of merger shall require the execution or interest exchange shall require
2694 the signing in connection with the transaction, by each such member of a separate written consent to become
2695 subject to such ~~owner~~ *new interest holder* liability, unless in the case of a member that already has interest
2696 holder liability with respect to such domestic corporation, (i) the new interest holder liability is with respect
2697 to a domestic or foreign corporation, which may be a different or the same domestic corporation in which the
2698 person is a member, and (ii) the terms and conditions of the new interest holder liability are substantially
2699 identical to those of the existing interest holder liability, other than for changes that eliminate or reduce such
2700 interest holder liability.

2701 **§ 13.1-895.1. Merger between parent and subsidiary or between subsidiaries.**

2702 A. As used in this section:

2703 "Parent entity" means a domestic or foreign corporation or eligible entity that holds membership interests
2704 in a domestic corporation that possess at least 90 percent of the voting power of each class of membership of
2705 the domestic corporation that has voting power.

2706 "Subsidiary" means the domestic corporation whose membership interests are owned by a parent entity.

2707 B. A parent entity may merge (i) a subsidiary into itself or another subsidiary or (ii) itself into a
2708 subsidiary without the approval of the board of directors or the members or any subsidiary and, if the parent
2709 entity is a domestic corporation, without the approval of the members of the parent entity, unless the articles
2710 of incorporation of any subsidiary or the articles of incorporation or the organic rules of the parent entity
2711 otherwise provide.

2712 C. A parent entity shall be a foreign corporation or eligible entity only if the merger is permitted under
2713 the laws by which the foreign corporation or eligible entity is organized.

2714 D. The parent entity shall, within 10 days after the effective date of the merger, notify each of the
2715 subsidiary's other members that the merger has become effective.

2716 E. Except as provided in subsections B and C, a merger under this section shall be governed by the
2717 provisions of this article applicable to mergers generally.

2718 **§ 13.1-896. Articles of merger or interest exchange.**

2719 A. After a plan of merger *or interest exchange* has been adopted and approved as required by this Act
2720 chapter, the corporation shall deliver to the Commission for filing articles of merger shall be executed or
2721 interest exchange signed on behalf of each party to the merger. The articles shall or interest exchange that set
2722 forth:

2723 1. The plan of merger; the names of the parties to the merger, and, for each party that is a foreign

2724 corporation or eligible entity, the name of the state or country under whose law it is incorporated or formed;

2725 2. If the articles of incorporation of a domestic corporation that is the survivor of a merger are amended,

2726 or if a new domestic corporation is created as a result of a merger, as an attachment to the articles of merger,

2727 the amendments to the survivor's articles of incorporation or the articles of incorporation of the new

2728 corporation or interest exchange;

2729 3. 2. The date the plan of merger or interest exchange was adopted or approved by each domestic

2730 corporation that was a party to the merger or interest exchange;

2731 4. 3. If the plan of merger or interest exchange required approval by the members of a domestic

2732 corporation that was a party to the merger or interest exchange, either:

2733 a. A statement that the plan was approved by the unanimous consent of the members; or

2734 b. A statement that the plan was submitted to the members by the board of directors in accordance with

2735 this Act, and a statement of:

2736 (1) The designation of and number of votes entitled to be cast by each voting group entitled to vote

2737 separately on the plan; and

2738 (2) Either the total number of votes cast for and against the plan by each voting group entitled to vote

2739 separately on the plan or the total number of undisputed votes cast for the plan separately by each voting

2740 group and a statement that the number cast for the plan by each voting group was sufficient for approval by

2741 that voting group chapter, and was duly approved by the members in the manner required by this chapter and

2742 the articles of incorporation or bylaws.

2743 5. 4. If the plan of merger or interest exchange was adopted by the board of directors without approval by

2744 the members of a domestic corporation that was a party to the merger or interest exchange, a statement that

2745 the plan of merger or interest exchange was duly approved by the vote of a majority of the board of directors

2746 in office, including the reason member approval was not required; and

2747 6. 5. As to each foreign corporation or foreign eligible entity that was a party to the merger or interest

2748 exchange, a statement that the participation of the foreign corporation or foreign eligible entity was duly

2749 authorized as required by the its organic law of the corporation or eligible entity.

2750 B. Articles of merger or interest exchange shall be filed with delivered to the Commission for filing by the

2751 survivor of the merger or the acquiring corporation in an interest exchange. If the Commission finds that the

2752 articles of merger or interest exchange comply with the requirements of law and that all required fees have

2753 been paid, it shall issue a certificate of merger or interest exchange. Articles of merger or interest exchange

2754 filed under this section may be combined with any filing required under the organic law of any domestic

2755 eligible entity involved in the transaction if the combined filing satisfies the requirements of both this section

2756 and the other organic law.

2757 **§ 13.1-897. Effect of merger or interest exchange.**

2758 A. When a merger becomes effective:

2759 1. The domestic or foreign corporation or eligible entity that is designated in the plan of merger as the

2760 survivor continues or comes into existence as the case may be;

2761 2. The separate existence of every domestic or foreign corporation or eligible entity that is merged into the

2762 survivor ceases;

2763 3. ~~Property~~ All property owned by and, except to the extent that assignment would violate a contractual

2764 prohibition on assignment by operation of law, every contract right possessed by each domestic or foreign

2765 corporation or eligible entity that merges into the survivor is vested in the survivor without transfer,

2766 reversion, or impairment;

2767 4. All debts, obligations, and liabilities of each domestic or foreign corporation or eligible entity that is

2768 merged into the survivor are vested in debts, obligations, or liabilities of the survivor;

2769 5. The name of the survivor may, but need not be, substituted in any pending proceeding for the name of

2770 any party to the merger whose separate existence ceased in the merger;

2771 6. ~~The~~ If the survivor is a domestic corporation, the articles of incorporation or organic document and

2772 bylaws of the survivor is are amended to the extent provided in the plan of merger;

2773 7. The articles of incorporation or organic document and bylaws of a survivor that is a domestic

2774 corporation created by the merger becomes become effective; and

2775 8. The membership interests of each domestic or foreign corporation that is a party to the merger and the

2776 eligible interests in ~~an~~ a domestic or foreign eligible entity that is a party to the merger that are to be

2777 converted under the plan of merger into membership interests, other securities, eligible interests or other

2778 securities, obligations, rights to acquire membership interests, other securities, eligible interests or other

2779 securities, cash, other property, or any combination of the foregoing, are converted, and the former holders of

2780 such membership interests or eligible interests are entitled only to the rights provided to them in the plan of

2781 merger or to any rights they may have under the organic law of the governing the foreign corporation or

2782 domestic or foreign eligible entity;

2783 9. Except as provided by law or the plan of merger, all the rights, privileges, franchises, and immunities

2784 of each entity that was a party to the merger, other than the survivor, are the rights, privileges, franchises,

2785 and immunities of the survivor; and

2786 10. *If the survivor existed before the merger:*

2787 a. *All the property and contract rights of the survivor remain its property and contract rights without*
2788 *transfer, reversion, or impairment;*
2789 b. *The survivor remains subject to all its debts, obligations, and other liabilities; and*
2790 c. *Except as provided by law or the plan of merger, the survivor continues to hold all of its rights,*
2791 *privileges, franchises, and immunities.*

2792 B. *Upon a merger's becoming effective, a foreign corporation or a foreign eligible entity that is the*
2793 *survivor of the merger is deemed to appoint the clerk of the Commission as its agent for service of process in*
2794 *a proceeding to enforce the rights of members of each domestic corporation that is a party to the merger.*
2795 *When an interest exchange becomes effective, the membership interests or eligible interests in the acquired*
2796 *entity that are to be exchanged for membership interests and other securities, eligible interests, obligations,*
2797 *rights to acquire membership interests, other securities, eligible interests, cash, other property, or any*
2798 *combination of the foregoing, are entitled only to the rights provided to them in the plan of interest exchange*
2799 *or to any rights they may have under the organic law governing the acquired entity.*

2800 C. *Except as otherwise provided in the articles of incorporation or the bylaws of a domestic corporation*
2801 *or the organic law governing or organic rules of a foreign corporation or a domestic or foreign eligible*
2802 *entity, the effect of a merger or interest exchange on interest holder liability is as follows:*

2803 1. *A person who becomes subject to a new interest holder liability in respect of an entity as a result of a*
2804 *merger or interest exchange shall have that new interest holder liability only in respect of interest holder*
2805 *liabilities that arise after the merger or interest exchange becomes effective.*

2806 2. *If a person had interest holder liability with respect to a party to the merger or the acquired entity*
2807 *before the merger or interest exchange becomes effective with respect to membership interests or eligible*
2808 *interests of such party or acquired entity that were (i) exchanged in the merger or interest exchange; (ii)*
2809 *were canceled in the merger; or (iii) the terms and conditions of which relating to interest holder liability*
2810 *were amended pursuant to the merger:*

2811 a. *The merger or interest exchange does not discharge that prior interest holder liability with respect to*
2812 *any interest holder liabilities that arose before the merger or interest exchange becomes effective.*

2813 b. *The provisions of the organic law governing any entity for which the person had that prior interest*
2814 *holder liability shall continue to apply to the collection or discharge of any interest holder liabilities*
2815 *preserved by subdivision a, as if the merger or interest exchange had not occurred.*

2816 c. *The person shall have such rights of contribution from other persons as are provided by the organic*
2817 *law governing the entity for which the person had that prior interest holder liability with respect to any*
2818 *interest holder liabilities preserved by subdivision a, as if the merger or interest exchange had not occurred.*

2819 d. *The person shall not, by reason of such prior interest holder liability, have interest holder liability with*
2820 *respect to any interest holder liabilities that arise after the merger or interest exchange becomes effective.*

2821 3. *If a person has interest holder liability both before and after a merger becomes effective with*
2822 *unchanged terms and conditions with respect to the entity that is the survivor by reason of owning the same*
2823 *membership interests or eligible interests before and after the merger becomes effective, the merger has no*
2824 *effect on such interest holder liability.*

2825 4. *An interest exchange has no effect on interest holder liability related to membership interests or*
2826 *eligible interests of the acquired entity that were not exchanged in the interest exchange.*

2827 E. D. *No corporation that is required by law to be a domestic corporation may, by merger, cease to be a*
2828 *domestic corporation, but every such corporation, even though a corporation of some other state, the United*
2829 *States, or another country, shall also be a domestic corporation of the Commonwealth.*

2830 E. Upon a merger becoming effective, a foreign corporation or foreign eligible entity that is the survivor
2831 of a merger is deemed to appoint the clerk of the Commission as its agent for service of process in a
2832 proceeding to enforce the rights of members of each domestic corporation that is a party to the merger.

2833 F. *Except as provided in the organic law governing a party to a merger or in its articles of incorporation,*
2834 *bylaws, or organic rules, the merger does not give rise to any rights that a third party would have upon a*
2835 *dissolution, liquidation, or winding up of that party. The merger does not require a party to the merger to*
2836 *wind up the affairs of that party and does not constitute or cause its dissolution, termination, or cancellation.*

2837 G. *A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation,*
2838 *subscription, or conveyance that is made to an entity that is a party to a merger that is not the survivor and*
2839 *that takes effect or remains payable after the merger inures to the survivor.*

2840 H. *A trust obligation that would govern property if transferred to a nonsurviving entity applies to property*
2841 *that is transferred to the survivor after a merger becomes effective.*

2842 **§ 13.1-897.1. Abandonment of a merger or interest exchange.**

2843 A. *Unless otherwise provided in the a plan of merger or interest exchange or in the laws under which a*
2844 *foreign corporation or a domestic or foreign eligible entity that is a party to a merger or interest exchange is*
2845 *organized or by which it is governed, after a plan of merger or interest exchange has been adopted and*
2846 *approved as required by this article, and at any time before the certificate of merger or interest exchange has*
2847 *become effective, the plan may be abandoned by a domestic corporation that is a party to the plan without*

2848 action by its members in accordance with any procedures set forth in the plan of merger or *interest exchange*
 2849 or, if no such procedures are set forth in the plan, in the manner determined by the board of directors, subject
 2850 to any contractual rights of other parties to the plan of merger or *interest exchange*.

2851 B. If a merger or *interest exchange* is abandoned after the articles of merger or *interest exchange* have
 2852 been filed with the Commission but before the certificate of merger or *interest exchange* has become
 2853 effective, in order for the certificate of merger or *interest exchange* to be ~~abandoned~~ canceled, all parties to
 2854 the plan of merger or *interest exchange* shall sign a statement of abandonment and deliver it to the
 2855 Commission for filing prior to the effective time and date of the certificate of merger or *interest exchange*. If
 2856 the Commission finds that the statement of abandonment complies with the requirements of law, it shall issue
 2857 a certificate of abandonment, effective as of the time and date the statement of abandonment was received by
 2858 the Commission, and the merger shall be deemed abandoned and shall not become effective.

2859 C. The statement of abandonment shall contain:

- 2860 1. The name of each domestic and foreign corporation and eligible entity that is a party to the merger and
 2861 its jurisdiction of formation and entity type;
- 2862 2. When the survivor will be a domestic corporation or domestic stock corporation created by the merger,
 2863 the name of the survivor set forth in the articles of merger;
- 2864 3. The date on which the articles of merger or *interest exchange* were filed with the Commission;
- 2865 4. The date and time on which the Commission's certificate of merger or *interest exchange* becomes
 2866 effective; and
- 2867 5. A statement that the merger or *interest exchange* is being abandoned in accordance with this section.

2868 **§ 13.1-898.2. Domestication.**

2869 A. *By complying with the provisions of this article applicable to foreign corporations, a foreign*
 2870 *corporation may become a domestic corporation if the laws of the jurisdiction in which the domestication is*
 2871 *permitted by the organic law of the foreign corporation is incorporated authorize it to domesticate in another*
 2872 *jurisdiction. The laws of the Commonwealth shall govern the effect of domesticating in the Commonwealth*
 2873 *pursuant to this article.*

2874 B. *By complying with the provisions of this article, a domestic corporation not required by law to be a*
 2875 *domestic corporation may become a foreign corporation if the jurisdiction in which the corporation intends to*
 2876 *domesticate allows for the domestication. Regardless of whether the laws of the foreign jurisdiction require*
 2877 *the adoption of pursuant to a plan of domestication, if the domestication shall be approved in the manner*
 2878 *provided in this article. The laws of the jurisdiction in which the corporation domesticates shall govern the*
 2879 *effect of domesticating in that jurisdiction is permitted by the organic law of the foreign corporation resulting*
 2880 *from the domestication.*

2881 C. The plan of domestication shall ~~set forth~~ include:

- 2882 1. *A statement of the jurisdiction in which the corporation is to be domesticated The jurisdiction of*
 2883 *formation and name of the domesticating corporation;*
- 2884 2. *The name and jurisdiction of formation of the domesticated corporation;*
- 2885 3. *The manner and basis of reclassifying the membership interests and any rights to membership interests*
 2886 *of the domesticating corporation into membership interests, eligible interests or other securities, obligations,*
 2887 *rights to acquire membership interests, eligible interests or other securities, cash, other property, or any*
 2888 *combination of the foregoing, if any;*

2889 4. *If the domesticated corporation will be a domestic corporation, (i) the proposed amended and restated*
 2890 *articles of incorporation of the domesticated corporation that satisfy the requirements of § 13.1-819,*
 2891 *provided that provisions not required to be included in restated articles of incorporation may be omitted and*
 2892 *(ii) the proposed bylaws of the domesticated corporation, which shall not be included with the articles of*
 2893 *domestication delivered to the Commission for filing; and*

2894 5. The other terms and conditions of the domestication; and

2895 3. *For a foreign corporation that is to become a domestic corporation, as a referenced attachment,*
 2896 *amended and restated articles of incorporation that comply with the requirements of § 13.1-819 as they will*
 2897 *be in effect upon consummation of the domestication.*

2898 D. *The In addition to the requirements of subsection C, a plan of domestication may include any other*
 2899 *provision relating to the domestication not prohibited by law.*

2900 E. *The The terms of a plan of domestication may also include a provision that the board of directors may*
 2901 *amend the plan at any time prior to issuance of the certificate of domestication or such other document*
 2902 *required by the laws of the other jurisdiction to consummate the domestication. Where a plan of*
 2903 *domestication is required to be submitted to the members for their approval, an amendment made subsequent*
 2904 *to the submission of the plan to the members of the corporation shall not alter or change any of the terms or*
 2905 *conditions of the plan if such alteration or change would adversely affect the members of any class of the*
 2906 *corporation be made dependent upon facts objectively ascertainable outside the plan in accordance with*
 2907 *subsection K of § 13.1-804.*

2908 **§ 13.1-898.3. Action on plan of domestication by a domestic corporation.**

2909 A. When the members of a domestic corporation have voting rights, a plan of domestication shall be

2910 adopted in the following manner:

2911 1. The board of directors of the corporation shall adopt the plan of domestication.
2912 2. After adopting a plan of domestication, the board of directors shall submit the plan of domestication for
2913 approval by to the members for their approval.

2914 3. For a plan of domestication to be approved:

2915 a. The In submitting the plan of domestication to the members for approval, the board of directors shall
2916 recommend the plan to that the members approve the plan unless the board of directors determines that
2917 because of conflict of interests or other special circumstances it should not make no such a recommendation
2918 and communicates, in which case the board of directors shall inform the members of the basis for its that
2919 determination to the members with the plan; and

2920 b. The members shall approve the plan as provided in subdivision 6 of this subsection.

2921 4. 3. The board of directors may condition its submission set conditions for approval of the plan of
2922 domestication to by the members on any basis or the effectiveness of the plan of domestication.

2923 5. The corporation shall notify each member entitled to vote of the proposed members' meeting in
2924 accordance with § 13.1-842 at which the plan of domestication is to be submitted for approval. The notice
2925 shall state that a purpose of the meeting is to consider the plan and shall contain or be accompanied by a copy
2926 of the plan.

2927 4. If the approval of the members is to be sought at a members meeting, the corporation shall notify each
2928 member, regardless of whether or not entitled to vote, of the meeting of members at which the plan of
2929 domestication is to be submitted for approval. The notice shall state that the purpose, or one of the purposes,
2930 of the meeting is to consider the plan of domestication and shall contain or be accompanied by a copy or
2931 summary of the plan. The notice shall include or be accompanied by a copy of the articles of incorporation
2932 and bylaws or other organic rules, as applicable, as they will be in effect immediately after the
2933 domestication.

2934 6. 5. Unless this Act the articles of incorporation or bylaws provide otherwise, or the board of directors,
2935 acting pursuant to subdivision 4 of this subsection 3, requires a greater vote, approval of the plan of
2936 domestication shall be approved by each voting group requires (i) the approval of members entitled to vote
2937 on the plan at a meeting at which a quorum exists by more than two-thirds of all the votes entitled to be cast
2938 on the plan and (ii) except as provided in subdivision 6, the approval of each class of members entitled to
2939 vote on the plan voting as a separate voting group at the meeting at which a quorum of the voting group
2940 exists consisting of more than two-thirds of the votes entitled to be cast on the plan by that voting group. The
2941 articles of incorporation or bylaws may provide for a greater or lesser vote than that provided for in this
2942 subdivision or a vote by separate voting groups section so long as the vote provided for is not less than a
2943 majority of all the votes cast on the plan by each voting group entitled to vote on the plan at a meeting at
2944 which a quorum of the voting group exists.

2945 7. Voting by a class of members as a separate voting group is required on a plan of domestication if the
2946 plan contains a provision that, if contained in a proposed amendment to articles of incorporation, would
2947 entitle the class to vote as a separate voting group on the proposed amendment under § 13.1-887.

2948 6. The articles of incorporation or the bylaws may expressly limit or eliminate the separate voting rights
2949 provided in clause (ii) of subdivision 5 as to any class of members, except when the articles of incorporation
2950 or the bylaws of the foreign corporation resulting from the domestication include what would be in effect an
2951 amendment that would entitle the class to vote as a separate group under § 13.1-887 if it were a proposed
2952 amendment of the articles of incorporation or bylaws of the domestic domesticating corporation.

2953 7. If as a result of a domestication one or more members of a domestic domesticating corporation would
2954 become subject to interest holder liability, approval of the plan of domestication shall require the signing in
2955 connection with the domestication, by each such member, of a separate written consent to become subject to
2956 such interest holder liability, unless in the case of a member that already has interest holder liability with
2957 respect to the domesticating corporation, the terms and conditions of the interest holder liability with respect
2958 to the domesticated corporation are substantially identical to those of the existing interest holder liability,
2959 other than for changes that eliminate or reduce such interest holder liability.

2960 B. When a domestic corporation has no members, or no members have voting rights, a plan of
2961 domestication shall be adopted at a meeting of by the board of directors of such corporation upon receiving
2962 the vote of a majority of the directors in office.

2963 § 13.1-898.4. Articles of domestication; effectiveness.

2964 A. After the (i) a plan of domestication of a domestic corporation has been adopted and approved as
2965 required by this chapter or (ii) a foreign corporation is approved in the manner required by the laws of the
2966 jurisdiction in which the corporation is incorporated, the corporation shall file with the Commission that is
2967 the domesticating corporation has approved a domestication as required under its organic law, articles of
2968 domestication setting shall be signed in the name of the domesticating corporation. The articles shall set
2969 forth:

2970 1. The name of the domesticating corporation and its jurisdiction of formation;
2971 2. The original name of the corporation immediately prior to the filing of the articles of domestication

2972 and, if that name is unavailable for use in the Commonwealth or the corporation desires to change its name in
 2973 connection with the domestication, a name that satisfies the requirements of § 13.1-829, date of formation,
 2974 jurisdiction of formation, and entity type of the domesticating corporation and its name, jurisdiction of
 2975 formation, and entity type upon each subsequent domestication or conversion;

2976 2. 3. The plan of domestication;

2977 3. The original jurisdiction of the corporation and the date the corporation was incorporated in that
 2978 jurisdiction, and each subsequent jurisdiction and the date the corporation was domesticated in each such
 2979 jurisdiction, if any, prior to the filing of the articles of domestication; and

2980 4. If the domesticating corporation is a domestic corporation:

2981 a. The date the plan of domestication was approved;

2982 b. A statement that the plan of domestication is permitted by the laws of the jurisdiction in which the
 2983 corporation is incorporated and that the corporation has complied with those laws in effecting the
 2984 domestication was approved in accordance with this chapter;

2985 c. A statement that the corporation revokes the authority of its registered agent to accept service on its
 2986 behalf and appoints the clerk of the Commission as an agent for service of process in any proceeding based
 2987 on a cause of action arising during the time it was incorporated in the Commonwealth;

2988 d. A mailing address to which the clerk may mail a copy of any process served on the clerk under
 2989 subdivision c; and

2990 e. A commitment by the corporation to notify the clerk of the Commission in the future of any change in
 2991 the mailing address of the corporation; and

2992 5. If the domesticating corporation is a foreign corporation, a statement that the domestication is
 2993 permitted by and was approved in accordance with the organic law of the foreign corporation.

2994 B. The articles of domestication shall be delivered to the Commission for filing. If the Commission finds
 2995 that the articles of domestication comply with the requirements of law and that all required fees have been
 2996 paid, it shall issue a certificate of domestication.

2997 C. The certificate of domestication shall become effective pursuant to § 13.1-806.

2998 D. A foreign corporation's existence as a domestic corporation shall begin when the certificate of
 2999 domestication is effective. Upon becoming effective, the certificate of domestication shall be conclusive
 3000 evidence that all conditions precedent required to be performed by the foreign corporation have been
 3001 complied with and that the corporation has been incorporated under this Act.

3002 E. If the domesticating corporation is a foreign corporation is authorized that has a certificate of authority
 3003 to transact business in the Commonwealth under Article 14 (§ 13.1-919 et seq.), its certificate of authority
 3004 shall be canceled deemed withdrawn automatically on when the domestication becomes effective date of the
 3005 certificate of domestication issued by the Commission.

3006 § 13.1-898.5. Amendment of plan of domestication; abandonment.

3007 A. Whenever a domestic corporation has adopted and approved, in the manner required by this article, a
 3008 plan of domestication providing for the corporation to be domesticated under the laws of another jurisdiction,
 3009 the corporation shall file with the Commission articles of incorporation surrender setting forth: A plan of
 3010 domestication of a domestic corporation may be amended:

3011 1. In the same manner as the plan was approved, if the plan does not provide for the manner in which it
 3012 may be amended; or

3013 2. In the manner provided in the plan, except that a member that was entitled to vote on or consent to
 3014 approval of the plan is entitled to vote on or consent to any amendment of the plan that will change:

3015 a. The amount or kind of membership interests or other securities, obligations, rights to acquire
 3016 membership interests or other securities, cash, other property, or any combination of the foregoing, to be
 3017 received by any of the members of the domesticating corporation under the plan;

3018 b. The articles of incorporation or bylaws of the domesticated corporation that will be in effect
 3019 immediately after the domestication becomes effective, except for changes that do not require approval of the
 3020 members of the domesticated corporation under its organic law or its proposed articles of incorporation or
 3021 bylaws as set forth in the plan; or

3022 c. Any of the other terms or conditions of the plan, if the change would adversely affect the member in any
 3023 material respect.

3024 B. Unless otherwise provided in the plan of domestication, after the plan of domestication has been
 3025 adopted and approved by a domestic corporation as required by this article, and at any time before the
 3026 certificate of domestication has become effective, the plan may be abandoned by the corporation without
 3027 action by its members in accordance with any procedures set forth in the plan or, if no such procedures are
 3028 set forth in the plan, in the manner determined by the board of directors.

3029 C. A domesticating corporation that is a foreign corporation may abandon its domestication to a domestic
 3030 corporation in the manner prescribed by its organic law.

3031 D. If a domestication is abandoned after the articles of domestication have been filed with the
 3032 Commission but before the certificate of domestication has become effective, a statement of abandonment
 3033 signed by the domesticating corporation shall be delivered to the Commission for filing prior to the effective

3034 time and date of the certificate of domestication. If the Commission finds that the statement of abandonment
3035 complies with the requirements of law, it shall issue a certificate of abandonment, effective as of the date and
3036 time the statement of abandonment was received by the Commission, and the domestication shall be deemed
3037 abandoned and shall not become effective.

3038 E. The statement of abandonment shall contain:

3039 1. The name of the domesticating corporation and its jurisdiction of formation;

3040 2. The jurisdiction in which the When the domesticating corporation is to be domesticated and a foreign
3041 corporation, the name of the domesticated corporation upon its set forth in the articles of domestication under
3042 the laws of that jurisdiction;

3043 3. The plan date on which the articles of domestication were filed with the Commission;

3044 4. The date and time on which the Commission's certificate of domestication becomes effective; and

3045 5. A statement that the articles of incorporation surrender are being filed in connection with the
3046 domestication of the is being abandoned in accordance with this section or, when the domesticating
3047 corporation as is a foreign corporation to be incorporated under the laws of another jurisdiction and that the, a
3048 statement that the foreign corporation is surrendering its charter under the laws of the Commonwealth;

3049 5. Where the members of the corporation have voting rights, a statement:

3050 a. That the plan was adopted by the unanimous consent of the members; or

3051 b. That the plan was submitted to the members by the board of directors in accordance with this Act, and a
3052 statement of:

3053 (1) The existence of a quorum of each voting group entitled to vote separately on the plan; and

3054 (2) Either the total number of votes cast for and against the plan by each voting group entitled to vote
3055 separately on the plan or the total number of undisputed votes cast for the plan separately by each voting
3056 group and a statement that the number cast for the plan by each voting group was sufficient for approval by
3057 that voting group;

3058 6. Where the corporation has no members, or no members having voting rights, then a statement of that
3059 fact, the date of the meeting of the board of directors at which the plan was adopted and a statement of the
3060 fact that such plan received the vote of a majority of the directors in office;

3061 7. A statement that the corporation revokes the authority of its registered agent to accept service on its
3062 behalf and appoints the clerk of the Commission as its agent for service of process in any proceeding based
3063 on a cause of action arising during the time it was incorporated in the Commonwealth;

3064 8. A mailing address to which the clerk may mail a copy of any process served on the clerk under
3065 subdivision 7; and

3066 9. A commitment by the corporation to notify the clerk of the Commission in the future of any change in
3067 the mailing address of the corporation.

3068 B. If the Commission finds that the articles of incorporation surrender comply with the requirements of
3069 law and that all required fees have been paid, it shall issue a certificate of incorporation surrender.

3070 C. The corporation shall automatically cease to be a domestic corporation when the certificate of
3071 incorporation surrender becomes effective.

3072 D. If the former domestic corporation intends to continue to transact business in the Commonwealth, then,
3073 within 30 days after the effective date of the certificate of incorporation surrender, it shall deliver to the
3074 Commission an application for a certificate of authority to transact business in the Commonwealth pursuant
3075 to § 13.1-921 together with a copy of its instrument of domestication and articles of incorporation and all
3076 amendments thereto, duly authenticated by the Secretary of State or other official having custody of corporate
3077 records in the state or country under whose laws it is incorporated or domesticated.

3078 E. Service of process on the clerk of the Commission is service of process on a former domestic
3079 corporation that has surrendered its charter pursuant to this section. Service on the clerk shall be made in
3080 accordance with § 12.1-19.1 and service on the former domestic corporation may be made in any other
3081 manner permitted by law abandoned the domestication as required by law.

3082 § 13.1-898.5:1. Effect of domestication.

3083 A. When a domestication of a foreign corporation into a domestic corporation becomes effective:

3084 1. All property owned by, and every contract right possessed by, the domesticating corporation are the
3085 property and contract rights of the domesticated corporation without transfer, reversion, or impairment;

3086 2. All debts, obligations, and other liabilities of the domesticating corporation are the debts, obligations,
3087 and other liabilities of the domesticated corporation;

3088 3. The name of the domesticated corporation may, but need not, be substituted for the name of the
3089 domesticating corporation in any pending proceeding;

3090 4. The articles of incorporation and bylaws of the domesticated corporation become effective;

3091 5. The membership interests of the domesticating corporation are reclassified into membership interests,
3092 eligible interests or other securities, obligations, rights to acquire membership interests, eligible interests or
3093 other securities, cash, or other property in accordance with the terms of the domestication, and the members
3094 of the domesticating corporation are entitled only to the rights provided to them by those terms and to any
3095 appraisal rights they may have under the organic law of the domesticating corporation; and

3096 6. *The domesticated corporation is:*

3097 a. *Incorporated under and subject to the organic law of the domesticated corporation;*

3098 b. *The same corporation without interruption as the domesticating corporation; and*

3099 c. *Deemed to have been incorporated on the date the domesticating corporation was originally incorporated.*

3100 B. *When a domestication of a domestic corporation into a foreign jurisdiction becomes effective, the domesticated corporation is deemed to appoint the clerk of the Commission as an agent for service of process in a proceeding to enforce the rights of members of each domestic corporation that is a party to the domestication.*

3101 C. *Except as otherwise provided in the organic law or organic rules of a domesticating foreign corporation, the interest holder liability of a member in a foreign corporation that is domesticated into the Commonwealth who had interest holder liability in respect of such domesticating corporation before the domestication becomes effective shall be as follows:*

3102 1. *The domestication does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the domestication becomes effective.*

3103 2. *The provisions of the organic law of the domesticating corporation shall continue to apply to the collection or discharge of any interest holder liabilities preserved by subdivision 1, as if the domestication had not occurred.*

3104 3. *The member shall have such rights of contribution from other persons as are provided by the organic law of the domesticating corporation with respect to any interest holder liabilities preserved by subdivision 1, as if the domestication had not occurred.*

3105 4. *The member shall not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that arise after the domestication becomes effective.*

3106 D. *A member who becomes subject to interest holder liability in respect of the domesticated corporation as a result of the domestication shall have such interest holder liability only in respect of interest holder liabilities that arise after the domestication becomes effective.*

3107 E. *A domestication does not constitute or cause the dissolution of the domesticating corporation.*

3108 F. *A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance that is made to the domesticating corporation and that takes effect or remains payable after the domestication inures to the domesticated corporation.*

3109 G. *A trust obligation that would govern property if transferred to the domesticating corporation applies to property that is transferred to the domesticated corporation after the domestication takes effect.*

3110 Article 11.2.

3111 Conversions.

3112 § 13.1-898.8. **Definitions.**

3113 As used in this article, unless the context requires a different meaning:

3114 "Conversion" means a transaction pursuant to this article.

3115 "Converted entity" means the converting entity as it continues in existence after a conversion.

3116 "Converting entity" means the domestic corporation or eligible entity that approves a plan of conversion pursuant to § 13.1-898.10 or the foreign eligible entity that approves a conversion pursuant to the organic law of the foreign eligible entity.

3117 § 13.1-898.9. **Conversion.**

3118 A. *By complying with this article, a domestic corporation may become (i) a domestic eligible entity or (ii) a foreign eligible entity if the conversion is permitted by the organic law of the foreign entity.*

3119 B. *By complying with this article and applicable provisions of its organic law, a domestic eligible entity may become a domestic corporation. If procedures for the approval of a conversion are not provided by the organic law or organic rules of a domestic eligible entity, the conversion shall be adopted and approved in the same manner as a merger of that eligible entity. If the organic law or organic rules of a domestic eligible entity do not provide procedures for the approval of either a conversion or a merger, a plan of conversion may nonetheless be adopted and approved by the unanimous consent of all the interest holders of such eligible entity. In either such case, the conversion thereafter may be effected as provided in the other provisions of this article, and for purposes of applying this article in such a case:*

3120 1. *The eligible entity, its members or interest holders, eligible interests, and organic rules taken together shall be deemed to be a domestic corporation, members, eligible interests, and articles of incorporation and bylaws, respectively and vice versa, as the context may require; and*

3121 2. *If the business and affairs of the eligible entity are managed by persons that are not identical to the members or interest holders, such persons shall be deemed to be the board of directors.*

3122 C. *By complying with the provisions of this article applicable to foreign entities, a foreign eligible entity may become a domestic corporation if the organic law of the foreign eligible entity permits it to become a corporation in another jurisdiction and it has complied with said law in effecting the conversion.*

3123 D. *Unless otherwise provided for in Chapter 2.2 (§ 50-73.79 et seq.) of Title 50, a domestic partnership that has filed either a statement of partnership authority or a statement of registration as a registered limited*

3158 liability partnership with the Commission that is not canceled may become a domestic corporation pursuant
3159 to a plan of conversion that is approved by the domestic partnership in accordance with the provisions of this
3160 article.

3161 **§ 13.1-898.10. Plan of conversion.**

3162 A. A domestic corporation may convert to a domestic or foreign eligible entity, or a domestic eligible
3163 entity may convert to a domestic corporation, under this article by approving a plan of conversion. The plan
3164 of conversion shall include:

3165 1. The name of the converting corporation;
3166 2. The name, jurisdiction of formation, and type of entity of the converted entity;
3167 3. The manner and basis of converting the membership interests and any rights to acquire membership
3168 interests of the domestic corporation into eligible interests or other securities, obligations, rights to acquire
3169 eligible interests or other securities, cash, other property, or any combination of the foregoing;

3170 4. If the converted entity will be a domestic corporation, (i) the proposed articles of incorporation of the
3171 converted entity that satisfy the requirements of § 13.1-819 and (ii) the proposed bylaws of the converted
3172 entity, which shall not be included with the articles of conversion delivered to the Commission for filing;

3173 5. If the converted entity will be a domestic eligible entity and a filing entity, the full text, as it will be in
3174 effect immediately after the conversion becomes effective, of the organic rules of the converted entity,
3175 including the public organic record that satisfies the requirements of § 13.1-619, 13.1-1101, 13.1-1212 or
3176 50-73.11, as the case may be, provided that the private organic rules shall not be included with the articles of
3177 conversion delivered to the Commission for filing;

3178 6. If the converted entity will be a foreign corporation or eligible entity, the plan of conversion may
3179 include the organic rules of the converted entity provided that the organic rules shall not be included with the
3180 articles of conversion delivered to the Commission for filing; and

3181 7. The other terms and conditions of the conversion.
3182 B. In addition to the requirements of subsection A, a plan of conversion may contain any other provision
3183 not prohibited by law.

3184 C. The terms of a plan of conversion may be made dependent upon facts objectively ascertainable outside
3185 the plan in accordance with subsection K of § 13.1-804.

3186 **§ 13.1-898.11. Action on plan of conversion.**

3187 A. A. In the case of a conversion of a domestic corporation to a domestic or foreign eligible entity, the
3188 plan of conversion shall be adopted in the following manner:

3189 1. The plan of conversion shall first be adopted by board of directors.

3190 2. After adopting the plan of conversion, the board of directors shall submit the plan to the members
3191 entitled to vote for their approval. In submitting the plan of conversion to the members for their approval, the
3192 board of directors shall recommend that the members approve the plan unless the board of directors makes a
3193 determination that because of conflicts of interest or other special circumstances it should not make such a
3194 recommendation, in which case the board of directors shall inform the members of the basis for that
3195 determination.

3196 3. The board of directors may set conditions for approval of the plan of conversion by the members or the
3197 effectiveness of the plan of conversion.

3198 4. If the approval of the members is to be sought at a members meeting, the corporation shall notify each
3199 member, regardless of whether entitled to vote, of the meeting of members at which the plan of conversion is
3200 to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is
3201 to consider the plan of conversion and shall contain or be accompanied by a copy or summary of the plan.
3202 The notice shall include or be accompanied by a copy of the organic rules of the converted entity, which are
3203 to be in writing as they will be in effect immediately after the conversion.

3204 5. Unless the articles of incorporation or the bylaws provide otherwise, or the board of directors, acting
3205 pursuant to subdivision 3, requires a greater vote, approval of the plan of conversion requires (i) the
3206 approval of the members entitled to vote at a meeting at which a quorum exists consisting of more than two-
3207 thirds of the votes entitled to be cast on the plan and (ii) the approval of each class of members entitled to
3208 vote voting as a separate voting group at a meeting at which a quorum of the voting group exists consisting
3209 of more than two-thirds of the votes entitled to be cast on the plan by that voting group. The articles of
3210 incorporation or the bylaws may provide for a greater or lesser vote than that provided in this subsection or
3211 a vote by separate voting groups so long as the vote provided for is not less than a majority of all votes cast
3212 on the plan by each voting group entitled to vote on the plan at a meeting at which a quorum of the voting
3213 group exists.

3214 B. If as a result of the conversion one or more members of the converting domestic corporation would
3215 become subject to interest holder liability, approval of the plan of conversion shall require the signing in
3216 connection with the transaction, by each such member, of a separate written consent to become subject to
3217 such interest holder liability.

3218 C. When a domestic corporation has no members, or no members having the right to vote, a plan of
3219 conversion shall be adopted by the board of directors of such corporation.

§ 13.1-898.12. Articles of conversion; effectiveness.

3220 A. After (i) a plan of conversion of a domestic corporation has been adopted and approved as required by
 3221 this article or (ii) a domestic or foreign eligible entity that is the converting entity has approved a conversion
 3222 as required under its organic law, articles of conversion shall be signed in the name of the converting entity.
 3223 The articles of conversion shall set forth:

3224 1. The name of the converting entity, its jurisdiction of formation, and entity type;

3225 2. The original name, date of formation, jurisdiction of formation, and entity type, of the converted entity
 3226 and its name, jurisdiction of formation, and entity type upon each subsequent domestication or conversion;

3227 3. If the converting entity is a domestic corporation:

3228 a. The plan of conversion;

3229 b. The date the plan of conversion was approved; and

3230 c. A statement that the plan of conversion was approved in accordance with this chapter;

3231 4. If the converted entity is a foreign eligible entity:

3232 a. A statement that the corporation revokes the authority of its registered agent to accept service on its
 3233 behalf and appoints the clerk of the Commission as an agent for service of process in any proceeding based
 3234 on a cause of action arising during the time it was incorporated in the Commonwealth;

3235 b. A mailing address to which the clerk may mail a copy of any process served on the clerk under
 3236 subdivision a; and

3237 c. A commitment by the converting entity to notify the clerk of the Commission in the future of any change
 3238 in its mailing address after the conversion becomes effective;

3239 5. If the converting entity is a foreign eligible entity and the converted entity is a domestic corporation, a
 3240 statement that the conversion is permitted by and was approved in accordance with the organic law of the
 3241 foreign eligible entity; and

3242 6. If the converting entity is a domestic stock corporation, limited partnership, partnership, or business
 3243 trust and the converted entity is a domestic corporation:

3244 a. The plan of conversion;

3245 b. The date the plan of conversion was approved; and

3246 c. A statement that the plan of conversion was approved in accordance with this chapter.

3247 B. The articles of conversion shall be delivered to the Commission for filing. If the Commission finds that
 3248 the articles of conversion comply with the requirements of law and that all required fees have been paid, it
 3249 shall issue a certificate of conversion.

3250 C. Articles of conversion under this section may be combined with any required conversion filing under
 3251 the organic law of a domestic eligible entity or a foreign eligible entity that is authorized or registered to
 3252 transact business in the Commonwealth that is the converting entity or converted entity if the combined filing
 3253 satisfies the requirements of both this section and the other organic law.

3254 D. If the converting entity is a foreign eligible entity that is authorized or registered to transact business
 3255 in the Commonwealth, then its certificate of authority or registration shall be deemed withdrawn on the
 3256 effective date of its conversion.

§ 13.1-898.13. Amendment of plan of conversion; abandonment.

3257 A. A plan of conversion of a converting entity that is a domestic corporation may be amended:

3258 1. In the same manner as the plan was approved, if the plan does not provide for the manner in which it
 3259 may be amended; or

3260 2. In the manner provided in the plan, except that members that were entitled to vote on or consent to
 3261 approval of the plan are entitled to vote on or consent to any amendment of the plan that will change:

3262 a. The amount or kind of eligible interests or other securities, obligations, rights to acquire eligible
 3263 interests or other securities, cash, other property, or any combination of the foregoing, to be received by any
 3264 of the members of the converting corporation under the plan;

3265 b. The organic rules of the converted entity that will be in effect immediately after the conversion becomes
 3266 effective, except for changes that do not require approval of the eligible interest holders of the converted
 3267 entity under its organic law or organic rules; or

3268 c. Any other terms or conditions of the plan, if the change would adversely affect such members in any
 3269 material respect.

3270 B. Unless otherwise provided in the plan of conversion, after the plan of conversion has been approved by
 3271 a converting entity that is a domestic corporation in the manner required by this article, and at any time
 3272 before the certificate of conversion has become effective, the plan may be abandoned by the corporation
 3273 without action by its members in accordance with any procedures set forth in the plan or, if no such
 3274 procedures are set forth in the plan, in the manner determined by the board of directors.

3275 C. If a conversion is abandoned after articles of conversion have been filed with the Commission but
 3276 before the certificate of conversion has become effective, a statement of abandonment shall be signed on
 3277 behalf of the converting domestic corporation or foreign eligible entity and delivered to the Commission for
 3278 filing prior to the effective time and date of the certificate of conversion. If the Commission finds that the
 3279 statement of abandonment complies with the requirements of law, it shall issue a certificate of abandonment,

3280
 3281

3282 *effective as of the date and time the statement of abandonment was received by the Commission, and the*
3283 *conversion shall be deemed abandoned and shall not become effective.*

3284 *D. The statement of abandonment shall contain:*

3285 *1. The name of the converting entity and its jurisdiction of formation and entity type;*

3286 *2. When the converting entity is a foreign eligible entity, the name of the converted entity set forth in the*
3287 *articles of conversion;*

3288 *3. The date on which the articles of conversion were filed with the Commission;*

3289 *4. The date and time on which the Commission's certificate of conversion becomes effective; and*

3290 *5. A statement that the conversion is being abandoned in accordance with this section or, when the*
3291 *converting corporation is a foreign eligible entity, a statement that the foreign eligible entity abandoned the*
3292 *conversion as required by its organic law.*

3293 **§ 13.1-898.14. Effect of conversion.**

3294 *A. When a conversion becomes effective:*

3295 *1. All property owned by, and every contract right possessed by, the converting entity remains the*
3296 *property and contract rights of the converted entity without reversion or impairment;*

3297 *2. All debts, obligations, and other liabilities of the converting entity remain the debts, obligations, and*
3298 *other liabilities of the converted entity;*

3299 *3. The name of the converted entity may, but need not, be substituted for the name of the converting entity*
3300 *in any pending action or proceeding;*

3301 *4. If the converted entity is a filing entity or a domestic corporation or a domestic or foreign stock*
3302 *corporation, its public organic record and its private organic rules become effective;*

3303 *5. If the converted entity is not a filing entity, its private organic rules become effective;*

3304 *6. If the converted entity is a registered limited liability partnership, the filing required to become a*
3305 *registered limited liability partnership and its private organic rules become effective;*

3306 *7. The membership interests or eligible interests of the converting entity are reclassified into shares,*
3307 *eligible interests, or other securities, obligations, rights to acquire shares, eligible interests or other*
3308 *securities, cash, or other property in accordance with the terms of the conversion, and the members or*
3309 *interest holders of the converting entity are entitled only to the rights provided to them by those terms and to*
3310 *any appraisal rights they may have under the organic law of the converting entity;*

3311 *8. The converted entity is:*

3312 *a. Incorporated or organized under and subject to the organic law of the converted entity;*

3313 *b. The same entity without interruption as the converting entity; and*

3314 *c. Deemed to have been incorporated or otherwise organized on the date that the converting entity was*
3315 *originally incorporated, or organized;*

3316 *B. Except as otherwise provided in the articles of incorporation or the bylaws of a domestic corporation*
3317 *or the organic law or organic rules of a foreign corporation or a domestic or a foreign eligible entity, a*
3318 *member or eligible interest holder who becomes subject to interest holder liability in respect of a domestic*
3319 *corporation or eligible entity as a result of the conversion shall have such interest holder liability only in*
3320 *respect of interest holder liabilities that arise after the conversion becomes effective.*

3321 *C. Except as otherwise provided in the organic law or the organic rules of the eligible entity, the interest*
3322 *holder liability of an interest holder in a converting eligible entity that converts to a domestic corporation*
3323 *who had interest holder liability in respect of such converting eligible entity before the conversion becomes*
3324 *effective shall be as follows:*

3325 *1. The conversion does not discharge that prior interest holder liability with respect to any interest holder*
3326 *liabilities that arose before the conversion became effective.*

3327 *2. The provisions of the organic law of the eligible entity shall continue to apply to the collection or*
3328 *discharge of any interest holder liabilities preserved by subdivision 1, as if the conversion had not occurred.*

3329 *3. The eligible interest holder shall have such rights of contribution from other persons as are provided by*
3330 *the organic law of the eligible entity with respect to any interest holder liabilities preserved by subdivision 1,*
3331 *as if the conversion had not occurred.*

3332 *4. The eligible interest holder shall not, by reason of such prior interest holder liability, have interest*
3333 *holder liability with respect to any interest holder liabilities that arise after the conversion becomes effective.*

3334 *D. A conversion does not require the converting entity to wind up its affairs and does not constitute or*
3335 *cause the dissolution, termination, or cancellation of the entity.*

3336 *E. Upon a conversion becoming effective, a foreign corporation or foreign eligible entity that is the*
3337 *survivor of a conversion is deemed to appoint the clerk of the Commission as its agent for service of process*
3338 *in a proceeding to enforce the rights of members of each domestic corporation that is a party to the*
3339 *conversion.*

3340 *F. A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation,*
3341 *subscription, or conveyance that is made to the converting entity and that takes effect or remains payable*
3342 *after the conversion inures to the converted entity.*

3343 *G. A trust obligation that would govern property if transferred to the converting entity applies to property*

3344 *that is transferred to the converted entity after the conversion takes effect.*

3345 **§ 13.1-899. Disposition of assets not requiring member approval.**

3346 Unless the articles of incorporation or bylaws provide otherwise, no approval of the members of a
3347 corporation entitled to vote is required:

3348 1. To sell, lease, exchange, or otherwise dispose of any or all of the corporation's assets in the usual and
3349 regular course of business;

3350 2. To mortgage, pledge, or dedicate to the repayment of indebtedness, whether with or without recourse,
3351 or otherwise encumber any or all of the corporation's assets whether or not in the usual and regular course of
3352 business; or

3353 3. To transfer any or all of the corporation's assets to one or more domestic or foreign eligible entities all
3354 of whose eligible interests are owned by the corporation; or

3355 4. *To sell, lease, exchange, or otherwise dispose of the corporation's assets otherwise than in the usual or
3356 regular course of business if the disposition would leave the corporation with an activity that for the
3357 corporation and its subsidiaries on a consolidated basis represented or was supported by at least 33 percent
3358 of total assets at the end of the most recently completed fiscal year.*

3359 **§ 13.1-900. Member approval of certain dispositions.**

3360 A. *A corporation may sell, lease, exchange, or otherwise dispose of all, or substantially all, of its assets,
3361 with or without the good will, otherwise than in the usual and regular course of business, on the terms and
3362 conditions and for the consideration determined by the corporation's board of directors, if the board of
3363 directors adopts and its members approve the proposed transaction. The sale, lease, exchange, or other
3364 disposition of the corporation's assets other than a disposition described in § 13.1-899 requires approval of
3365 the board of directors and the members having the right to vote, if any.*

3366 B. Where there are members having voting rights, a disposition, other than a disposition described in
3367 § 13.1-899, shall be authorized in the following manner:

3368 1. The board of directors shall adopt a resolution authorizing the disposition. After adoption of such a
3369 resolution, the board of directors shall submit the proposed disposition to the members for their approval. The
3370 board of directors shall also submit to the members a recommendation that the members approve the
3371 proposed disposition, unless the board of directors makes a determination that because of conflicts of interest
3372 or other special circumstances it should not make such a recommendation, in which case the board of
3373 directors shall transmit to inform the members the basis for that determination.

3374 2. The board of directors may condition its submission of the proposed transaction on any basis set
3375 conditions for the approval of a disposition by the members or the effectiveness of the disposition.

3376 3. *The If a disposition is required to be approved by the members and if the approval is to be sought at a
3377 members' meeting, the corporation shall notify each member, whether or not entitled to vote, of the proposed
3378 members' meeting at which the disposition is to be submitted for approval in accordance with § 13.1-842.
3379 The notice shall also state that the purpose, or one of the purposes, of the meeting is to consider the
3380 disposition and shall contain or be accompanied by a copy or summary of the agreement pursuant to which
3381 the disposition will be effected. If only a summary of the agreement is sent to members, the corporation shall
3382 also send a copy of the agreement to any member who requests it.*

3383 4. Unless the articles of incorporation or bylaws provide otherwise, or the board of directors, acting
3384 pursuant to subdivision 2 of this subsection, requires a greater vote or a greater quorum, the approval of a
3385 disposition to be authorized shall be approved by more than two-thirds of all the votes cast on the disposition
3386 by the members shall require at a meeting at which a quorum exists the approval of more than two-thirds of
3387 all the votes entitled to be cast on the disposition. The articles of incorporation may provide for a greater or
3388 lesser vote than that provided for in this subsection or a vote by separate voting groups so long as the vote
3389 provided for is not less than a majority of all the votes cast on the disposition by each voting group entitled to
3390 vote on the disposition at a meeting at which a quorum of the voting group exists.

3391 5. Unless the parties to the disposition have agreed otherwise, after a disposition of assets has been
3392 approved by members, and at any time before the disposition has been consummated, it may be abandoned
3393 without action by the members, subject to any contractual rights; without further member action in
3394 accordance with the procedure set forth in the resolution proposing of the parties to the disposition or, if none
3395 is set forth, by the board of directors.

3396 C. For a transaction to be authorized where there are no members, or no members having voting rights,
3397 the proposed transaction shall be authorized upon receiving the vote of a majority of the directors in office.

3398 D. A disposition of assets in the course of dissolution under Article 13 (§ 13.1-902 et seq.) is not governed
3399 by this section.

3400 **§ 13.1-902. Dissolution by directors and members.**

3401 A. Where there are members having voting rights, a corporation's the board of directors may propose
3402 dissolution for submission to the members by first adopting a resolution authorizing the dissolution.

3403 B. For a proposal to dissolve to be adopted approved:

3404 1. The board of directors shall recommend dissolution to the members unless the board of directors
3405 determines that because of conflict of interests or other special circumstances it should make no

3406 recommendation and communicates, *in which case the board of directors shall inform the members of the*
3407 basis for its that determination to the members; and

3408 2. The members entitled to vote shall approve the proposal to dissolve as provided in subsection E.

3409 C. The board of directors may condition its submission set conditions for the approval of the proposal for
3410 dissolution on any basis by members or on the effectiveness of the dissolution.

3411 D. *The If the approval of the members is to be sought at a members' meeting, the corporation shall notify*
3412 *each member, regardless of whether entitled to vote, of the proposed members' meeting in accordance with*
3413 ~~§ 13.1-842~~ *of members at which dissolution will be submitted for approval. The notice shall also state (i) that*
3414 *the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation and (ii) how the*
3415 *assets of the corporation will be distributed after the corporation's creditors have been paid or how the*
3416 *distribution of assets will be determined.*

3417 E. Unless the articles of the incorporation or bylaws provide otherwise, or the board of directors, acting
3418 pursuant to subsection C, requires a greater vote or greater quorum, or a vote by voting groups, dissolution to
3419 be authorized shall have been approved at a members' meeting at which a quorum exists by more than
3420 two-thirds of all the votes entitled to be cast on the proposal to dissolve at a meeting at which a quorum
3421 exists. The articles of incorporation or bylaws may provide for a greater or lesser vote than that provided for
3422 in this subsection or a vote by separate voting groups so long as the vote provided for is not less than a
3423 majority of all the votes cast by each voting group entitled to vote on the proposed dissolution at a meeting at
3424 which a quorum of the voting group exists.

3425 **§ 13.1-904. Articles of dissolution.**

3426 A. At any time after dissolution is approved authorized, the corporation may dissolve by filing with
3427 delivering to the Commission for filing articles of dissolution setting forth:

3428 1. The name of the corporation.

3429 2. *The date of its incorporation.*

3430 3. The date that dissolution was authorized.

3431 3. 4. Where there are members having voting rights, either (i) a statement that dissolution was authorized
3432 by unanimous consent of the members; or (ii) a statement that the proposed dissolution was submitted to the
3433 members by the board of directors in accordance with this article and a statement of (a) the existence of a
3434 quorum of each voting group entitled to vote separately on dissolution and (b) either the total number of votes
3435 cast for and against dissolution by each voting group entitled to vote separately on dissolution or the total
3436 number of undisputed votes cast for dissolution separately by each voting group and a statement that the
3437 number cast for dissolution by each voting group was sufficient for approval by that voting group and was
3438 approved by the members in the manner required by this article and the articles of incorporation and bylaws.

3439 4. 5. Where there are no members, or no members having voting rights, then a statement of that fact, the
3440 date of the meeting of on which the board of directors at which authorized the dissolution was authorized and
3441 a statement of the fact that dissolution was authorized by the vote of a majority of the directors in office.

3442 B. If the Commission finds that the articles of dissolution comply with the requirements of law and that
3443 the corporation has paid all required fees and taxes, and delinquencies thereof, imposed by laws administered
3444 by the Commission, it shall issue a certificate of dissolution.

3445 C. A corporation is dissolved upon the effective date of the certificate of dissolution.

3446 D. For purposes of §§ 13.1-902 through 13.1-908.2, "dissolved corporation" means a corporation whose
3447 articles of dissolution have become effective; the term and includes a successor entity to which the remaining
3448 assets of the corporation are transferred subject to its liabilities for purposes of liquidation.

3449 **§ 13.1-905. Revocation of dissolution.**

3450 A. A corporation may revoke its dissolution at any time prior to the effective date of its certificate of
3451 termination of corporate existence.

3452 B. Revocation of dissolution shall be authorized in the same manner as the dissolution was authorized
3453 unless, where members have votes voting rights, that authorization permitted revocation by action by of the
3454 board of directors alone, in which event the board of directors may revoke the dissolution without member
3455 action.

3456 C. After the revocation of dissolution is authorized, the corporation may revoke the dissolution by filing
3457 with delivering to the Commission for filing articles of revocation of dissolution that set forth:

3458 1. The name of the corporation;

3459 2. The effective date of the dissolution that was revoked;

3460 3. The date that the revocation of dissolution was authorized;

3461 4. If the corporation's board of directors revoked a the dissolution, a statement to that effect and if
3462 dissolution was authorized by the members, a statement that revocation was permitted by action by of the
3463 board of directors alone pursuant to that authorization; and

3464 5. If member action was required to revoke the dissolution, the information required by subdivision 3 of
3465 subsection A 4 of § 13.1-904.

3466 D. If the Commission finds that the articles of revocation of dissolution comply with the requirements of
3467 law and that all required fees have been paid, it shall issue a certificate of revocation of dissolution.

3468 E. When the *certificate of revocation of dissolution* is effective, it relates back to and takes effect as of the
 3469 effective date of the *certificate of dissolution* and the corporation resumes carrying on its business as if
 3470 dissolution had never occurred.

3471 **§ 13.1-906. Effect of dissolution.**

3472 A dissolved corporation continues its corporate existence but may not transact any business except that
 3473 appropriate to wind up and liquidate its business and affairs, including:

- 3474 1. Collecting its assets;
- 3475 2. Disposing of its properties;
- 3476 3. Discharging or making provision for discharging its liabilities;
- 3477 4. Distributing its remaining property; and
- 3478 5. Doing every other act necessary to wind up and liquidate its business and affairs.

3479 B. Dissolution of a corporation does not:

- 3480 1. Transfer title to the corporation's property;
- 3481 2. Subject its directors to standards of conduct different from those prescribed in § 13.1-870;
- 3482 3. Change (i) quorum or voting requirements for its board of directors or members; ~~change~~ (ii) provisions
 3483 for selection, resignation, or removal of its directors or officers; or ~~change~~ (iii) provisions for amending its
 3484 bylaws;
- 3485 4. Prevent commencement of a proceeding by or against the corporation in its corporate name;
- 3486 5. Abate or suspend a proceeding pending by or against the corporation on the effective date of
 3487 dissolution; or
- 3488 6. Terminate the authority of the registered agent of the corporation.

3489 **§ 13.1-907. Distribution and plan of distribution of assets.**

3490 A. The assets of a corporation in the process of dissolution shall be applied and distributed as follows:

- 3491 1. All liabilities and obligations of the corporation shall be paid, satisfied and discharged, or adequate
 3492 provision shall be made therefor;
- 3493 2. Assets held by the corporation upon condition requiring return, transfer or conveyance, which condition
 3494 occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with such
 3495 requirements;
- 3496 3. Assets received and held by the corporation subject to limitations permitting their use only for
 3497 charitable, religious, eleemosynary, benevolent, educational or similar purposes, but not held upon a
 3498 condition requiring return, transfer or conveyance by reason of the dissolution, shall be transferred or
 3499 conveyed to one or more domestic or foreign corporations, societies or organizations engaged in activities
 3500 substantially similar to those of the dissolving corporation, pursuant to a plan of distribution adopted as
 3501 provided in this *Act chapter* or as a court may direct;

3502 4. Other assets, if any, shall be distributed in accordance with the provisions of the articles of
 incorporation or the bylaws to the extent that the articles of incorporation or bylaws determine the distributive
 3503 rights of members, or any class or classes of members, or provide for distribution to others; *and*

3504 5. Any remaining assets may be distributed to such persons, societies, organizations or domestic or
 3505 foreign corporations *or other eligible entities*, whether issuing shares or not, as may be specified in a plan of
 3506 distribution adopted as provided in this *Act chapter* or as a court may direct.

3507 B. A plan providing for the distribution of assets, not inconsistent with the provisions of this *Act chapter*,
 3508 may be adopted by a corporation in the process of dissolution and shall be adopted by a corporation for the
 3509 purpose of authorizing any transfer or conveyance of assets for which this *Act chapter* requires a plan of
 3510 distribution. A plan shall be adopted in accordance with the procedures established in § 13.1-902 or 13.1-903,
 3511 as the case may be.

3512 **§ 13.1-908. Known claims against dissolved corporation.**

3513 A. A dissolved corporation may dispose of the known claims against it by following the procedure
 3514 described in this section.

3515 B. The dissolved corporation shall deliver to each of its known claimants written notice of the dissolution
 3516 at any time after its effective date. The written notice shall:

- 3517 1. Provide a reasonable description of the claim that the claimant may be entitled to assert;
- 3518 2. State whether the claim is admitted, or not admitted, and if admitted (i) the amount that is admitted,
 3519 which may be as of a given date, and (ii) any interest obligation if fixed by an instrument of indebtedness;
- 3520 3. Provide a mailing address where a claim may be ~~sent~~ delivered;
- 3521 4. State the *claim deadline*, which may not be fewer than 120 days from the effective date of the written
 3522 notice, by which *written confirmation* of the claim is required to be delivered to the dissolved corporation *and*
 3523 *if the claimant's claim is not admitted, the proceeding deadline*, which may not be fewer than 180 days from
 3524 the effective date of the written notice, by which the claimant is required to commence a proceeding to
 3525 enforce the claim; and

3526 5. State that, *except to the extent that any claim is admitted*, the claim will be barred if written
 3527 confirmation of the claim is not delivered by the *claim deadline* or, *if the claim is not admitted, if the*
 3528 *claimant does not commence a proceeding to enforce the claim by the proceeding deadline*.

3530 C. A claim against the dissolved corporation is barred to the extent that it is not admitted:
3531 1. If the dissolved corporation delivered written notice to the claimant in accordance with subsection B
3532 and the claimant does not deliver written confirmation of the claim to the dissolved corporation by the *claim*
3533 deadline; or

3534 2. If the dissolved corporation delivered written notice to the claimant that *his the claimant's* claim is not
3535 admitted, in whole or in part, and the claimant does not commence a proceeding to enforce the claim *within*
3536 *90 days from the delivery of written confirmation of the claim to the dissolved corporation by the proceeding*
3537 *deadline.*

3538 D. For purposes of this section, "claim" does not include (i) a contingent liability or a claim based on an
3539 event occurring after the effective date of dissolution or (ii) a liability or claim the ultimate maturity of which
3540 is more than 60 days after the delivery of written notice to the claimant pursuant to subsection B. *Nothing in*
3541 *this section shall prevent acceleration of liability for an unmatured claim or liability by operation of the*
3542 *agreement under which it was created or the exercise of any discretionary right of the claimant thereunder.*

3543 E. If a liability exists but the full extent of any damages is *not* or may not be ascertainable, and a
3544 proceeding to enforce the claim is commenced pursuant to subdivision C 2, the claimant may amend the
3545 pleadings after filing to include any damages that occurred or are alleged to have occurred after filing, and the
3546 court having jurisdiction of such claim may continue such proceeding during its pendency if it appears that
3547 further damages are or may be still occurring.

3548 **§ 13.1-908.1. Other claims against dissolved corporation.**

3549 A. A dissolved corporation may *also* (i) deliver notice of its dissolution to any known claimant with a
3550 liability or claim that pursuant to subsection D of § 13.1-908 is not treated as a claim for purposes of
3551 § 13.1-908 and (ii). *A dissolved corporation may also publish notice of its dissolution and request that*
3552 *persons with claims against the dissolved corporation present them in accordance with the notice. The notice*
3553 *shall (i) be published one time in a newspaper of general circulation in the city or county where the dissolved*
3554 *corporation's principal office, or, if none in the Commonwealth, its registered office, is or was last located or*
3555 *(ii) be posted conspicuously for at least 30 days on the dissolved corporation's website.* The notice of
3556 dissolution shall request that persons with claims against the dissolved corporation present them in
3557 accordance with the notice.

3558 B. The notice shall:

3559 1. Describe the information that is required to be included in a claim and provide a mailing address to
3560 which the claim may be *sent delivered*; and

3561 2. State that a claim against the dissolved corporation will be barred unless a proceeding to enforce the
3562 claim is commenced prior to the earlier of the expiration of any applicable statute of limitations or three years
3563 after the date of delivery of notice to the claimant, or the date of publication of the notice, as appropriate.

3564 C. If the dissolved corporation provides notice of its dissolution in accordance with this section, the claim
3565 of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim
3566 against the dissolved corporation prior to the earlier of the expiration of any applicable statute of limitations
3567 or three years after the *date on which notice was delivered to the claimant or published, as appropriate*
3568 *publication of the notice:*

3569 1. A claimant who was not given written notice under § 13.1-908; and

3570 2. A *claimant whose claim was timely sent to the dissolved corporation but not acted on; and*

3571 3. A claimant whose claim pursuant to subsection D of § 13.1-908 is not treated as a claim for purposes of
3572 § 13.1-908.

3573 D. A claim that is not barred by subsection C of § 13.1-908 or subsection C of this section may be
3574 enforced:

3575 1. Against the dissolved corporation, to the extent of its undistributed assets; or

3576 2. Except as provided in subsection D of § 13.1-908.2, if the assets have been distributed in liquidation,
3577 against a member of the dissolved corporation to the extent of the member's pro rata share of the claim or the
3578 corporate assets distributed to the member in liquidation, whichever is less, but a member's total liability for
3579 all claims under this section may not exceed the total amount of assets distributed to the member.

3580 **§ 13.1-908.2. Court proceedings.**

3581 A. A dissolved corporation that has *published a complied with the notice under requirements of*
3582 § 13.1-908.1 may file an application with the circuit court of the city or county where the dissolved
3583 corporation's principal office, or, if none in the Commonwealth, its registered office, is or was last located for
3584 a determination of the amount and form of security to be provided for payment of claims that (i) are
3585 contingent or have not been made known to the dissolved corporation or that are based on an event occurring
3586 after the effective date of dissolution but that, based on the facts known to the dissolved corporation, are
3587 reasonably estimated to arise after the effective date of dissolution or (ii) are based on a liability the ultimate
3588 maturity of which is more than 60 days after delivery of written notice to the claimant pursuant to subsection
3589 B of § 13.1-908.1. Provision need not be made for any claim that is or is reasonably anticipated to be barred
3590 under subsection C of § 13.1-908.1.

3591 B. Within 10 days after the filing of the application, notice of the proceeding shall be given by the

3592 dissolved corporation to each *known* claimant ~~holding a contingent claim~~ whose *contingent* claim is ~~shown on~~
 3593 ~~the records of the dissolved corporation covered by the application.~~

3594 C. The court may appoint a guardian ad litem to represent all claimants whose identities are unknown in
 3595 any proceeding brought under this section. The ~~reasonable fees and~~ expenses of such guardian, including all
 3596 ~~reasonable~~ expert witness fees, shall be paid by the dissolved corporation.

3597 D. Provision by the dissolved corporation for security in the amount and the form ordered by the court
 3598 under subsection A shall satisfy the dissolved corporation's obligations with respect to claims ~~that do not~~
 3599 ~~meet the definition of a claim in subsection D of § 13.1-908 covered by that order~~, and such claims may not
 3600 be enforced against a member who received assets in liquidation.

3601 **§ 13.1-908.3. Director duties.**

3602 A. The ~~board of directors~~ *Directors* shall cause the dissolved corporation to apply its remaining assets to
 3603 discharge or make reasonable provision for the payment of claims and, *unless otherwise provided in the*
 3604 *articles of incorporation or bylaws*, make distributions *in liquidation* of assets to members after payment or
 3605 provision for claims.

3606 B. Directors of a dissolved corporation that has disposed of claims under § 13.1-908, 13.1-908.1, or
 3607 13.1-908.2 shall not be liable for breach of subsection A with respect to claims against the dissolved
 3608 corporation that are barred or satisfied under § 13.1-908, 13.1-908.1, or 13.1-908.2.

3609 **§ 13.1-909. Grounds for judicial dissolution.**

3610 A. The circuit court in any city or county described in subsection C may dissolve a corporation:

3611 1. In a proceeding by a member or *members holding at least five percent of the voting power or a director*
 3612 *if it is established that:*

3613 a. The directors are deadlocked in the management of the corporate affairs ~~and, the members are unable to~~
 3614 *break the deadlock, and* irreparable injury to the corporation is threatened or being suffered, or the business
 3615 and affairs of the corporation can no longer be conducted to the advantage of the members generally, because
 3616 of the deadlock, and either that the members are unable to break the deadlock or there are no members having
 3617 voting rights;

3618 b. The directors or those in control of the corporation have acted, are acting, or will act in a manner that is
 3619 illegal, oppressive, or fraudulent;

3620 c. The members are deadlocked in voting power and have failed, for a period that includes at least two
 3621 consecutive annual meeting dates, to elect successors to directors whose terms have expired;

3622 d. The corporate assets are being misapplied or wasted; or

3623 e. The corporation is unable to carry out its purposes;

3624 2. In a proceeding by a creditor if it is established that:

3625 a. The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied
 3626 and the corporation is insolvent; or

3627 b. The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is
 3628 insolvent;

3629 3. In a proceeding by the corporation to have its voluntary dissolution continued under court supervision;

3630 4. *In a proceeding by a member if the corporation has abandoned its business and has failed within a*
 3631 *reasonable time to liquidate and distribute its assets and terminate its corporate existence;*

3632 5. Upon application by the board of directors when it is established that circumstances make it impossible
 3633 to obtain a representative vote by members on the question of dissolution and that the continuation of the
 3634 business of the corporation is not in the interest of the members but it is in their interest that the assets and
 3635 business be liquidated; or

3636 5-. 6. When the Commission has instituted a proceeding for the involuntary termination of a corporate
 3637 existence and entered an order finding that the corporate existence of the corporation should be terminated
 3638 but that liquidation of its business and affairs should precede the entry of an order of termination of corporate
 3639 existence.

3640 B. The circuit court in the city or county named in subsection C shall have full power to liquidate the
 3641 assets and business of the corporation at any time after the termination of corporate existence, pursuant to the
 3642 provisions of this article upon the application of any person, for good cause, with regard to any assets or
 3643 business that may remain. The jurisdiction conferred by this clause may also be exercised by any such court
 3644 in any city or county where any property may be situated whether of a domestic or a foreign corporation that
 3645 ceased to exist.

3646 C. Venue for a proceeding brought under this section lies in the city or county where the corporation's
 3647 principal office is or was last located, or, if none in the Commonwealth, where its registered office is or was
 3648 last located.

3649 D. It is not necessary to make directors or members parties to a proceeding to be brought under this
 3650 section unless relief is sought against them individually.

3651 E. A court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or
 3652 custodian pendente lite with such powers and duties as the court may direct, take other action required to
 3653 preserve the corporate assets wherever located, and carry on the business of the corporation until a full

3654 hearing can be held.

3655 § 13.1-910. Receivership or custodianship.

3656 A. A court in a judicial proceeding brought to dissolve a corporation may appoint one or more receivers to
3657 wind up and liquidate, or one or more custodians to manage while the proceeding is pending, the business
3658 and affairs of the corporation. The court shall hold a hearing, after notifying all parties to the proceeding and
3659 any interested persons designated by the court, before appointing a receiver or custodian. The court
3660 appointing a receiver or custodian has exclusive jurisdiction over the corporation and all its property
3661 wherever located.

3662 B. The court may appoint *as a receiver or custodian* an individual, a domestic corporation *or eligible*
3663 *entity*, or a foreign corporation, *or eligible entity* authorized to transact business in the Commonwealth, *as a*
3664 ~~receiver or custodian~~. The court may require the receiver or custodian to post bond, with or without sureties,
3665 in an amount the court directs.

3666 C. The court shall describe the powers and duties of the receiver or custodian in its appointing order,
3667 which may be amended from time to time. Among other powers:

3668 1. The receiver (i) may dispose of all or any part of the assets of the corporation wherever located, at a
3669 public or private sale, ~~if authorized by the court~~, and (ii) may sue and defend in ~~his~~ *such receiver's* own name
3670 as receiver of the corporation in all courts of the Commonwealth; and

3671 2. The custodian may exercise all of the powers of the corporation, through or in place of its board of
3672 directors or officers, to the extent necessary to manage the affairs of the corporation in the best interest of its
3673 members and creditors.

3674 D. The court during a receivership may redesignate the receiver a custodian, and during a custodianship
3675 may redesignate the custodian a receiver, ~~if doing so is in the best interest of the corporation, its members,~~
3676 ~~and creditors~~.

3677 E. The court from time to time during the receivership or custodianship may order compensation paid and
3678 expense disbursements or reimbursements made *expenses paid or reimbursed* to the receiver or custodian and
3679 the custodian's counsel from the assets of the corporation or proceeds from the sale of the assets.

3680 § 13.1-912. Articles of termination of corporate existence.

3681 A. When a corporation has distributed all of its assets and voluntary dissolution proceedings have not
3682 been revoked, it shall ~~file~~ *deliver to the Commission for filing* articles of termination of corporate existence
3683 ~~with the Commission~~. The articles shall set forth:

3684 1. The name of the corporation;

3685 2. *The date of its incorporation*.

3686 3. That all the assets of the corporation have been distributed *to its creditors and, unless otherwise*
3687 *provided in the articles of incorporation or bylaws, to its members, if any*; and

3688 3. 4. That the dissolution of the corporation has not been revoked.

3689 B. *With the articles of termination of corporate existence, the corporation shall file a statement certifying*
3690 *that the corporation has filed required returns and has paid all required state taxes to the time of the*
3691 *statement. In contemplation of submitting the required statement, the corporation may file returns and pay*
3692 *taxes before such returns and taxes would otherwise be due.*

3693 C. If the Commission finds that the articles of termination of corporate existence comply with the
3694 requirements of law and that all required fees have been paid, it shall by order issue a certificate of
3695 termination of corporate existence. ~~Upon the issuance of such~~ *When the certificate is effective*, the existence
3696 of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate
3697 action by members, directors and officers as provided in this *Act chapter*.

3698 C. D. The statement "that all the assets of the corporation have been distributed" means that the
3699 corporation has divested itself of all its assets by the payment of claims or by assignment to a trustee or
3700 trustees as directed by § 13.1-907. If any certificate holder, member, bondholder, or other security holder, or
3701 a participating patron of a cooperative who is entitled to a share in the distribution of the assets cannot be
3702 found, the corporation may thereupon, and without awaiting the one year mentioned in § 55.1-2513, pay such
3703 person's share to the State Treasurer as abandoned property on complying with all applicable requirements of
3704 § 55.1-2524 except subdivision B 4 of that section.

3705 § 13.1-913. Termination of corporate existence by incorporators or initial directors.

3706 A majority of the initial directors or, if initial directors were not named in the articles of incorporation and
3707 have not been elected, *a majority of* the incorporators of a corporation that has not commenced business may
3708 dissolve the corporation and terminate its corporate existence by filing with the Commission articles of
3709 termination of corporate existence that set forth:

3710 1. The name of the corporation;

3711 2. *The date of its incorporation*;

3712 3. That the corporation has not commenced business;

3713 3. 4. That no debt of the corporation remains unpaid;

3714 4. 5. That the net assets of the corporation remaining after winding up have been distributed; and

3715 5. 6. That a majority of the initial directors authorized the dissolution or that initial directors were not

3716 named in the articles of incorporation and have not been elected and a majority of the incorporators
 3717 authorized the dissolution.

3718 § 13.1-914. Automatic termination of corporate existence.

3719 A. If any domestic corporation fails to file its annual report or pay its annual registration fee in a timely
 3720 manner as required by this chapter, the Commission shall mail to each such corporation a notice of the
 3721 impending termination of its corporate existence. Whether or not such notice is mailed, if any corporation
 3722 fails to file its annual report or pay its annual registration fee on or before the last day of the fourth month
 3723 immediately following its annual report or annual registration fee due date each year, the corporate existence
 3724 of the corporation shall be automatically terminated as of that day.

3725 B. If any domestic corporation whose registered agent has filed with the Commission his statement of
 3726 resignation pursuant to § 13.1-835 fails to file a statement of change pursuant to § 13.1-834 within 31 days
 3727 after the date on which the statement of resignation was filed, the Commission shall mail notice to the
 3728 corporation of the impending termination of its corporate existence. If the corporation fails to file the
 3729 statement of change before the last day of the second month immediately following the month in which the
 3730 impending termination notice was mailed, the corporate existence of the corporation shall be automatically
 3731 terminated as of that day.

3732 C. The properties and affairs of a corporation whose corporate existence has been terminated pursuant to
 3733 this section shall pass automatically to its directors as trustees in liquidation. The trustees shall then proceed
 3734 to (i) collect the assets of the corporation; (ii) *sell, convey, and dispose of its properties that are not to be*
 3735 *distributed in kind, if any;* (iii) pay, satisfy, and discharge its liabilities and obligations; and (iv) do all
 3736 other acts required to liquidate its business and affairs. After paying or adequately providing for the payment
 3737 of all its obligations, the trustees shall distribute the remainder of its assets in accordance with §§ 13.1-907
 3738 and 13.1-912.

3739 D. No officer, director, or agent of a corporation shall have any personal obligation for any of the
 3740 liabilities of the corporation whether such liabilities arise in contract, tort, or otherwise, solely by reason of
 3741 the termination of the corporation's existence pursuant to this section.

3742 § 13.1-915. Involuntary termination of corporate existence.

3743 A. The corporate existence of a corporation may be terminated involuntarily by order of the Commission
 3744 when it finds that the corporation (i) has continued to exceed or abuse the authority conferred upon it by law;
 3745 (ii) has failed to maintain a registered office or a registered agent in the Commonwealth as required by law;
 3746 (iii) has failed to file any document required by this *Act chapter* to be filed with the Commission; or (iv) has
 3747 been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its officers and directors
 3748 constituting a pattern or practice of employing unauthorized aliens in the Commonwealth. Upon termination,
 3749 the properties and affairs of the corporation shall pass automatically to its directors as trustees in liquidation.
 3750 The trustees then shall proceed to collect the assets of the corporation; *sell, convey, and dispose of such*
 3751 *properties that are not to be distributed in kind, if any;* and pay, satisfy and discharge its liabilities and
 3752 obligations and do all other acts required to liquidate its business and affairs. After paying or adequately
 3753 providing for the payment of all its obligations, the trustees shall distribute the remainder of its assets in
 3754 accordance with § 13.1-907. A corporation whose existence is terminated pursuant to clause (iv) shall not be
 3755 eligible for reinstatement for a period of not less than one year.

3756 B. Any corporation convicted of the offense listed in clause (iv) of subsection A shall immediately report
 3757 such conviction to the Commission and file with the Commission an authenticated copy of the judgment or
 3758 record of conviction.

3759 C. Before entering any such order the Commission shall issue a rule against the corporation giving it an
 3760 opportunity to be heard and show cause why such an order should not be entered. The Commission may issue
 3761 the rule on its own motion or on motion of the Attorney General.

3762 § 13.1-916. Reinstatement of a corporation that has ceased to exist.

3763 A. A corporation that has ceased to exist pursuant to this article may apply to the Commission for
 3764 reinstatement within five years thereafter unless the corporate existence was terminated by order of the
 3765 Commission (i) upon a finding that the corporation has continued to exceed or abuse the authority conferred
 3766 upon it by law or (ii) entered pursuant to § 13.1-911 and the circuit court's decree directing dissolution
 3767 contains no provision ~~or~~ for reinstatement of corporate existence.

3768 B. To have its corporate existence reinstated, the corporation shall provide the Commission with the
 3769 following:

- 3770 1. An application for reinstatement, which shall include the identification number issued by the
 3771 Commission to the corporation, and which may be in the form of a letter signed by an officer or director of
 3772 the corporation, or which may be by affidavit signed by an agent of any member's interests stating that after
 3773 diligent search by such agent, no officer or director can be found;
- 3774 2. A reinstatement fee of \$10 \$100;
- 3775 3. All annual registration fees and penalties that were due before the corporation ceased to exist and that
 3776 would have been assessed or imposed to the date of reinstatement if the corporation's existence had not been
 3777 terminated;

3778 4. An annual report for the calendar year that corresponds to the calendar year of the latest annual
3779 registration fee that was assessed or that would have been assessed to the date of reinstatement;

3780 5. If the name of the corporation does not comply with the provisions of § 13.1-829 at the time of
3781 reinstatement, articles of amendment to the articles of incorporation to change the corporation's name to a
3782 name that satisfies the provisions of § 13.1-829, with the fee required by this chapter for the filing of articles
3783 of amendment; and

3784 6. If the corporation's registered agent has filed a statement of resignation and a new registered agent has
3785 not been appointed, a statement of change pursuant to § 13.1-834.

3786 C. If the corporation complies with the provisions of this section, the Commission shall enter an order of
3787 reinstatement of corporate existence. Upon entry of the order of reinstatement, the corporate existence shall
3788 be deemed to have continued from the date of termination as if the termination had never occurred, and any
3789 liability incurred by the corporation or a director, officer, or other agent after the termination and before the
3790 reinstatement is determined as if the termination of the corporation's existence had never occurred.

3791 **§ 13.1-917. Survival of remedy after termination of corporate existence.**

3792 The termination of corporate existence shall not take away or impair any remedy available to or against
3793 the corporation, or its directors, officers, or members, for any right or claim existing, or any liability incurred,
3794 prior to such termination. Any such action or proceeding by or against the corporation may be prosecuted or
3795 defended by the corporation in its corporate name. The members, directors, and officers shall have power to
3796 take such corporate or other action as shall be appropriate to protect such remedy, right, or claim.

3797 *Article 13.1.*

3798 *Charitable Corporations and Other Entities with a Charitable Purpose.*

3799 **§ 13.1-918.1. Effect of any fundamental transaction.**

3800 A. *Property held in trust or otherwise dedicated to a charitable purpose shall not be diverted from its trust*
3801 *or charitable purpose by any fundamental transaction except in compliance with the laws of the*
3802 *Commonwealth on cy pres or otherwise dealing with the non-diversion of charitable assets.*

3803 B. *A person that is a member or is otherwise affiliated with a charitable corporation or other entity with a*
3804 *charitable purpose shall not receive a direct or indirect financial benefit in connection with a fundamental*
3805 *transaction unless the person is itself a charitable corporation or any other entity with a charitable purpose.*
3806 *This subsection does not apply to receipt of reasonable compensation for services rendered.*

3807 C. *A devise, bequest, gift, grant, or promise contained in a will or other instrument, in trust or otherwise,*
3808 *made before or after a fundamental transaction to or for a charitable corporation or other entity with a*
3809 *charitable purpose that is the subject of the fundamental transaction, inures to the entity as it continues in*
3810 *existence after the transaction if it is a charitable corporation or other entity with a charitable purpose,*
3811 *subject to the express terms of the will or other instrument.*

3812 **§ 13.1-918.2. Authority of the Attorney General.**

3813 *Nothing in this article shall affect the authority of the Attorney General regarding charitable assets under*
3814 *§ 2.2-507.1.*

3815 **§ 13.1-919. Authority to transact business required.**

3816 A. A foreign corporation ~~may~~ shall not transact business in the Commonwealth until it obtains a
3817 certificate of authority from the Commission.

3818 B. The following activities, among others, do not constitute transacting business within the meaning of
3819 subsection A:

3820 1. Maintaining, defending, *mediating, arbitrating,* or settling any proceeding;
3821 2. Holding meetings of the board of directors or members or carrying on other activities concerning
3822 internal corporate affairs;

3823 3. Maintaining ~~bank~~ accounts *in financial institutions;*
3824 4. Selling through independent contractors;

3825 5. Soliciting or obtaining orders, ~~whether by mail or through employees or agents or otherwise, by any~~
3826 *means* if the orders require acceptance outside the Commonwealth before they become contracts;

3827 6. Creating or acquiring indebtedness, deeds of trust, ~~and or~~ security interests in ~~real or personal~~ property;
3828 7. Securing or collecting debts or enforcing deeds of trust ~~and or~~ security interests in property securing the
3829 debts ~~and holding, protecting, or maintaining property so acquired;~~

3830 8. Owning, ~~without more, real or personal~~ protecting, and maintaining property;
3831 9. Conducting an isolated transaction that is completed within 30 consecutive days and that is not one in
3832 the course of ~~repeated similar~~ transactions ~~of a like nature;~~

3833 10. For a period of less than 90 consecutive days, producing, directing, filming, crewing or acting in
3834 motion picture feature films, television series or commercials, or promotional films ~~which~~ that are sent
3835 outside of the Commonwealth for processing, editing, marketing and distribution; ~~or~~

3836 11. Serving, without more, as a general partner of or as a partner in a partnership that is a general partner
3837 of a domestic or foreign limited partnership *or a manager of a domestic or foreign limited liability company*
3838 that does not otherwise transact business in the Commonwealth; or

3839 12. *Transacting business in interstate commerce.*

3840 C. The list of activities in subsection B is not exhaustive.
 3841 *D. This section shall not apply in determining the contacts or activities that may subject a foreign*
 3842 *corporation to service of process, taxation, or regulation under the laws of the Commonwealth other than this*
 3843 *chapter.*

3844 *E. The term "transacting business" as used in this section shall have no effect on personal jurisdiction*
 3845 *under § 8.01-328.1.*

§ 13.1-920. Consequences of transacting business without authority.

3847 A. A foreign corporation transacting business in the Commonwealth without a certificate of authority may
 3848 not maintain a proceeding in any court in the Commonwealth until it obtains a certificate of authority.

3849 B. Notwithstanding subsections A and C, the failure of a foreign corporation to obtain a certificate of
 3850 authority does not impair the validity of its corporate acts or prevent it from defending any proceeding in the
 3851 Commonwealth.

3852 C. The successor to a foreign corporation that transacted business in the Commonwealth without a
 3853 certificate of authority and the assignee of a cause of action arising out of that business may not maintain a
 3854 proceeding based on that cause of action in any court in the Commonwealth until the foreign corporation or
 3855 its successor obtains a certificate of authority.

3856 A court may stay a proceeding commenced by a foreign corporation, its successor, or assignee until it
 3857 determines whether the foreign corporation or its successor requires a certificate of authority. If it so
 3858 determines, the court shall further stay the proceeding until the foreign corporation or its successor obtains
 3859 the certificate.

3860 D. If a foreign corporation transacts business in the Commonwealth without a certificate of authority, each
 3861 officer, director, and employee who does any of such business in the Commonwealth knowing that a
 3862 certificate of authority is required shall be liable for a penalty of not less than \$500 and not more than \$5,000.
 3863 Any such penalty may be imposed by the Commission or by any court in the Commonwealth before which an
 3864 action against the corporation may lie, after the corporation and the individual have been given notice and an
 3865 opportunity to be heard.

3866 E. Suits, actions and proceedings may be begun against a foreign corporation that transacts business in the
 3867 Commonwealth without a certificate of authority by serving process on any director, officer or agent of the
 3868 corporation doing such business, or, if none can be found, on the clerk of the Commission or on the
 3869 corporation in any other manner permitted by law. If any foreign corporation transacts business in the
 3870 Commonwealth without a certificate of authority, it shall by transacting such business be deemed to have
 3871 thereby appointed the clerk of the Commission ~~its attorney~~ *an agent* for service of process *upon the foreign*
 3872 *corporation.* Service upon the clerk shall be made in accordance with § 12.1-19.1.

§ 13.1-921. Application for certificate of authority.

3873 A. A ~~foreign corporation may apply to the Commission for~~ *To obtain* a certificate of authority to transact
 3874 business in the Commonwealth, ~~a foreign corporation shall deliver an application to the Commission.~~ The
 3875 application shall be made on ~~forms~~ a form prescribed and furnished by the Commission. The application shall
 3876 *be signed in the name of the foreign corporation and* set forth:

3877 1. The name of the foreign corporation, and if the ~~foreign~~ corporation is prevented by § 13.1-924 from
 3878 using its name in the Commonwealth, a designated name that satisfies the requirements of subsection B of
 3880 § 13.1-924;

3881 2. The foreign corporation's jurisdiction of formation, and if the foreign corporation was previously
 3882 authorized or registered to transact business in the Commonwealth as a foreign corporation, limited liability
 3883 company, business trust, limited partnership, or registered limited liability partnership, with respect to every
 3884 such prior authorization or registration, (i) the name of the entity; (ii) the entity type; (iii) the state or other
 3885 jurisdiction of incorporation, organization, or formation; and (iv) the entity identification number issued to it
 3886 by the Commission;

3887 3. The foreign corporation's original date of incorporation, organization, or formation as an entity and its
 3888 period of duration;

3889 4. The street address of the foreign corporation's principal office;

3890 5. The address of the proposed registered office of the foreign corporation in the Commonwealth,
 3891 including both (i) the post office address with street and number, if any, and (ii) the name of the county or
 3892 city in which it is located, and the name of its proposed registered agent in the Commonwealth at such
 3893 address and that the registered agent is either (a) an individual who is a resident of Virginia and either an
 3894 officer or director of the corporation or a member of the Virginia State Bar or (b) a domestic or foreign stock
 3895 or nonstock corporation, limited liability company, or registered limited liability partnership authorized to
 3896 transact business in the Commonwealth, the business office of which is identical with the registered office;
 3897 and

3898 6. The names and ~~usual~~ business addresses of the ~~current~~ *foreign corporation's* directors and principal
 3899 officers ~~of the foreign corporation.~~

3900 B. The foreign corporation shall deliver with the completed application a copy of its articles of
 3901 incorporation and all amendments ~~and corrections~~ thereto, duly authenticated by the Secretary of State or

3902 other official having custody of corporate records in its jurisdiction of formation.

3903 C. A foreign corporation is not precluded from receiving a certificate of authority to transact business in
3904 the Commonwealth because of any difference between the law of the foreign corporation's jurisdiction of
3905 formation and the law of the Commonwealth.

3906 D. If the Commission finds that the application complies with the requirements of law and that all
3907 required fees have been paid, it shall issue a certificate of authority to transact business in the
3908 Commonwealth.

3909 § 13.1-922. Amended certificate of authority.

3910 A. A foreign corporation authorized to transact business in the Commonwealth shall obtain an amended
3911 certificate of authority from the Commission *if it:*

3912 1. ~~If it changes~~ *Changes* its corporate name ~~or in the state or other~~ jurisdiction of its ~~incorporation~~
3913 ~~formation; or~~

3914 2. *Changes its jurisdiction of formation; or*

3915 ~~To abandon or change~~ *3. Abandons or changes* the designated name adopted by the *foreign* corporation
3916 for use in the Commonwealth pursuant to subsection B of § 13.1-924.

3917 B. The requirements of § 13.1-921 for obtaining an original certificate of authority apply to obtaining an
3918 amended certificate under this section.

3919 C. Whenever the articles of incorporation of a foreign corporation that is authorized to transact business in
3920 the Commonwealth are amended, within 30 days after the amendment becomes effective, the foreign
3921 corporation shall file with the Commission a copy of such amendment duly authenticated by the Secretary of
3922 State or other official having custody of corporate records in the ~~state or other~~ jurisdiction ~~under whose law it~~
3923 is ~~incorporated of formation.~~

3924 § 13.1-923. Effect of certificate of authority.

3925 A. A certificate of authority authorizes the foreign corporation to which it is issued to transact business in
3926 the Commonwealth, subject, however, to the right of the Commonwealth to revoke the certificate as provided
3927 in this *Act chapter*.

3928 B. A foreign corporation holding a valid certificate of authority shall have no greater rights and privileges
3929 than a domestic corporation. The certificate of authority shall not be deemed to authorize *it the foreign*
3930 *corporation* to exercise any of its corporate powers or purposes that a foreign corporation is forbidden by law
3931 to exercise in the Commonwealth.

3932 C. This *Act chapter* does not authorize the Commonwealth to regulate the organization or internal affairs
3933 of a foreign corporation authorized to transact business in the Commonwealth.

3934 § 13.1-925. Registered office and registered agent of foreign corporation.

3935 A. Each foreign corporation authorized to transact business in the Commonwealth shall continuously
3936 maintain in the Commonwealth:

3937 1. A registered office, which may be the same as any of its places of business; *and*

3938 2. A registered agent, who shall be:

3939 a. An individual who is a resident of Virginia and either an officer or director of the corporation or a
3940 member of the Virginia State Bar, and whose business office is identical with the registered office; *or*

3941 b. A domestic or foreign stock or nonstock corporation, limited liability company or registered limited
3942 liability partnership authorized to transact business in the Commonwealth, the business office of which is
3943 identical with the registered office; provided such a registered agent (i) shall not be its own registered agent
3944 and (ii) shall designate by instrument in writing, acknowledged before a notary public, one or more natural
3945 persons at the office of the registered agent upon whom any process, notice or demand may be served and
3946 shall continuously maintain at least one such person at that office. Whenever any such person accepts service,
3947 a photographic copy of such instrument shall be attached to the return.

3948 B. The sole duty of the registered agent is to forward to the *foreign* corporation at its last known address
3949 any process, notice or demand that is served on the registered agent.

3950 § 13.1-926. Change of registered office or registered agent of a foreign corporation.

3951 A. A foreign corporation authorized to transact business in the Commonwealth may change its registered
3952 office or registered agent, or both, upon filing with the Commission a statement of change on a form
3953 prescribed and furnished by the Commission that sets forth:

3954 1. The name of the foreign corporation;

3955 2. The address of its current registered office;

3956 3. If the current registered office is to be changed, the post office address, including *the* street and number,
3957 if any, of the new registered office, and the name of the city or county in which it is to be located;

3958 4. The name of its current registered agent;

3959 5. If the current registered agent is to be changed, the name of the new registered agent; *and*

3960 6. That after the change or changes are made, the corporation will be in compliance with the requirements
3961 of § 13.1-925.

3962 B. A statement of change shall *forthwith* be filed with the Commission by a foreign corporation *whenever*
3963 if its registered agent dies, resigns or ceases to satisfy the requirements of § 13.1-925.

3964 C. A foreign corporation's registered agent may sign a statement as required above if (i) the business
 3965 address of the registered agent changes to another post office address within the Commonwealth or, (ii) *the*
 3966 *name of the county or city in which the registered office is located changes or is incorrect on the*
 3967 *Commission's records, or (iii) the name of the registered agent has been legally changed.* A foreign
 3968 corporation's new registered agent may sign and submit for filing a statement as required above if (a) the
 3969 former registered agent is a business entity that has been merged into the new registered agent, (b) the
 3970 instrument of merger is on record in the office of the clerk of with the Commission, and (c) the new registered
 3971 agent is an entity that is qualified to serve as a registered agent pursuant to § 13.1-925. In either instance, the
 3972 registered agent or surviving entity shall forthwith file a statement as required above, which shall recite that a
 3973 copy of the statement shall be mailed to the principal office address of the foreign corporation on or before
 3974 the business day following the day on which the statement is filed with the Commission.

§ 13.1-927. Resignation of registered agent of foreign corporation.

3975 A. A registered agent of a foreign corporation may resign the agency appointment as agent for the
 3976 corporation by signing and filing with the Commission a statement of resignation stating (i) the name of the
 3977 foreign corporation, (ii) the name of the agent, and (iii) that the agent resigns from serving as registered agent
 3978 for the foreign corporation. The statement of resignation shall be accompanied by a certification that the
 3979 registered agent will have a copy of the statement mailed to the principal office of the foreign corporation by
 3980 certified mail on or before the business day following the day on which the statement is filed. When the
 3981 statement of resignation takes effect, the registered office is also discontinued.

3982 B. A statement of resignation takes effect on the earlier of (i) 12:01 a.m. on the thirty-first day after the
 3983 date on which the statement was filed with the Commission or (ii) the date on which a statement of change to
 3984 appoint a registered agent is filed, in accordance with § 13.1-926, with the Commission.

§ 13.1-928. Service of process on foreign corporation.

3985 A. The registered agent of a foreign corporation authorized to transact business in the Commonwealth
 3986 shall be an agent of such foreign corporation upon whom any process, notice, order or demand required or
 3987 permitted by law to be served upon the corporation may be served. The registered agent may by instrument in
 3988 writing, acknowledged before a notary public, designate a natural person or persons in the office of the
 3989 registered agent upon whom any such process, notice, order or demand may be served. Whenever any such
 3990 person accepts service of process, a photographic copy of such instrument shall be attached to the return.

3991 B. Whenever a foreign corporation authorized to transact business in the Commonwealth fails to appoint
 3992 or maintain a registered agent in the Commonwealth, or whenever its registered agent cannot with reasonable
 3993 diligence be found at the registered office, then the clerk of the Commission shall be an agent of the foreign
 3994 corporation upon whom service may be made in accordance with § 12.1-19.1.

3995 C. Nothing in this section shall limit or affect the right to serve any process, notice, order or demand,
 3996 required or permitted by law to be served upon a foreign corporation in any other manner now or hereafter
 3997 permitted by law.

§ 13.1-928.1. Merger of foreign corporation authorized to transact business in Commonwealth.

4000 A. Whenever a foreign corporation authorized to transact business in the Commonwealth is a party to a
 4001 merger permitted by the laws of the state or other its jurisdiction under whose laws it is incorporated of
 4002 formation, and such foreign corporation is the surviving entity of the merger, it shall, within 30 days after
 4003 such merger becomes effective, file with the Commission a copy of the instrument of merger duly
 4004 authenticated by the Secretary of State or other official having custody of corporate records in the state or
 4005 other its jurisdiction under whose law it is incorporated of formation; however, the filing shall not be required
 4006 when a foreign corporation merges with a domestic corporation or eligible entity, the foreign corporation's
 4007 articles of incorporation are not amended by said merger, and the articles of merger filed on behalf of the
 4008 domestic corporation pursuant to § 13.1-896 contain a statement that the merger is permitted under the laws
 4009 of the state or other jurisdiction in which the foreign corporation is incorporated and that participation of the
 4010 foreign corporation has complied with that law in effecting the merger was duly authorized as required by its
 4011 organic law.

4012 B. Whenever a foreign corporation authorized to transact business in the Commonwealth is a party to a
 4013 merger permitted by the laws of the state or other its jurisdiction under the laws of which it is incorporated of
 4014 formation, and such corporation is not the surviving entity of the merger or, whenever such a foreign
 4015 corporation is a party to a consolidation so permitted, the surviving or resulting domestic or foreign
 4016 corporation, limited liability company, business trust, partnership, or limited partnership or eligible entity, if
 4017 there is one, shall, if not continuing to transact business in the Commonwealth, within 30 days after such
 4018 merger or consolidation becomes effective, deliver to the Commission a copy of the instrument of merger or
 4019 consolidation duly authenticated by the Secretary of State or other official having custody of corporate
 4020 records in the state or other foreign corporation's jurisdiction under whose law it was incorporated of
 4021 formation and comply in behalf of the predecessor corporation with the provisions of § 13.1-929. If a
 4022 However, if the surviving or resulting foreign corporation or limited liability company, business trust,
 4023 partnership, or limited partnership eligible entity is to continue to transact business in the Commonwealth and
 4024 has not received obtained a certificate of authority or certificate of registration to transact business in the
 4025

4026 Commonwealth, *then*, within such 30 days, *it shall* deliver to the Commission an application for a certificate
4027 of authority *or certificate of registration* to transact business in the Commonwealth; ~~together with a duly~~
4028 ~~authenticated copy of the instrument of merger or consolidation and also, in case of a merger, a copy of its~~
4029 ~~articles of incorporation and all amendments thereto, duly authenticated by the Secretary of State or other~~
4030 ~~official having custody of corporate records in the state or country under whose laws it is incorporated~~
4031 ~~pursuant to and in compliance with § 13.1-759, 13.1-921, 13.1-1052, 13.1-1242, 50-73.54, or 50-73.138, as~~
4032 ~~applicable.~~

4033 C. Upon the merger or consolidation of ~~two~~ *a foreign corporation with one* or more foreign corporations
4034 ~~any one of which owns or eligible entities, all~~ property in the Commonwealth; ~~all such property~~ shall pass to
4035 the surviving or resulting corporation *or eligible entity* except as otherwise provided by the laws of the state
4036 ~~by which it is governed its jurisdiction of formation~~, but only from the time when a duly authenticated copy
4037 of the instrument of merger or consolidation is filed with the Commission.

4038 **§ 13.1-928.2. Entity conversion of foreign corporation authorized to transact business in**
4039 **Commonwealth.**

4040 A. Whenever a foreign corporation that is authorized to transact business in the Commonwealth converts
4041 to another type of entity, the surviving or resulting entity shall, within 30 days after such ~~entity~~ conversion
4042 becomes effective, file with the Commission a copy of the instrument of ~~entity~~ conversion duly authenticated
4043 by the Secretary of State or other official having custody of corporate records in the state or other jurisdiction
4044 under whose laws such ~~entity~~ conversion was effected; and

4045 1. If the surviving or resulting entity is not continuing to transact business in the Commonwealth or is not
4046 a foreign limited liability company, business trust, limited partnership, or registered limited liability
4047 partnership, then, within 30 days after such ~~entity~~ conversion, it shall comply on behalf of the predecessor
4048 corporation with the provisions of § 13.1-929; or

4049 2. If the surviving or resulting entity is a foreign limited liability company, business trust, limited
4050 partnership, or registered limited liability partnership and is to continue to transact business in the
4051 Commonwealth, then, within such 30 days, it shall deliver to the Commission an application for a certificate
4052 of registration to transact business in the Commonwealth or, in the case of a foreign registered limited
4053 liability partnership, a statement of registration.

4054 B. Upon the ~~entity~~ conversion of a foreign corporation that is authorized to transact business in the
4055 Commonwealth, all property in the Commonwealth owned by the foreign corporation shall pass to the
4056 surviving or resulting entity except as otherwise provided by ~~the laws of the state or other its jurisdiction by~~
4057 ~~which it is governed of formation~~, but only from and after the time when a duly authenticated copy of the
4058 instrument of ~~entity~~ conversion is filed with the Commission.

4059 **§ 13.1-929. Withdrawal of foreign corporation.**

4060 A. A foreign corporation authorized to transact business in the Commonwealth may ~~not~~ withdraw ~~from~~
4061 the Commonwealth until it obtains a certificate of withdrawal from the Commission.

4062 B. A foreign corporation authorized to transact business in the Commonwealth may apply authority by
4063 applying to the Commission for a certificate of withdrawal. The application shall be on a form prescribed and
4064 furnished by the Commission and shall set forth:

4065 1. The name of the foreign corporation and ~~the name of the state or other its jurisdiction under whose laws~~
4066 ~~it is incorporated of formation~~;

4067 2. If applicable, a statement that the foreign corporation was a party to a merger permitted by the laws of
4068 ~~the state or other its jurisdiction under whose law it was incorporated of formation~~ and that it was not the
4069 surviving entity of the merger, has consolidated with another entity, or has converted to another type of entity
4070 under the laws of ~~the state or other its jurisdiction under whose law it was incorporated of formation~~;

4071 3. That the foreign corporation is not transacting business in the Commonwealth and that it surrenders its
4072 authority to transact business in the Commonwealth;

4073 4. That the foreign corporation revokes the authority of its registered agent to accept service on its behalf
4074 and appoints the clerk of the Commission as ~~its~~ an agent for service of process *upon the foreign corporation*
4075 in any proceeding based on a cause of action arising during the time it was authorized to transact business in
4076 the Commonwealth;

4077 5. A mailing address to which the clerk of the Commission may mail a copy of any process served on him
4078 under subdivision 4; and

4079 6. A commitment to notify the clerk of the Commission in the future of any change in the mailing address
4080 of the corporation.

4081 C. B. The Commission shall not allow any foreign corporation to withdraw ~~from the Commonwealth its~~
4082 ~~certificate of authority~~ unless such corporation files with the Commission a statement certifying that the
4083 corporation has filed returns and has paid all state taxes to the time of the ~~certificate statement~~ or a statement
4084 that no such returns are required to be filed or taxes are required to be paid. In such case the corporation may
4085 file returns and pay taxes before they would otherwise be due. If the Commission finds that the application
4086 complies with the requirements of law and that all required fees have been paid, it shall issue a certificate of
4087 withdrawal.

4088 D. C. Before any foreign corporation authorized to transact business in the Commonwealth terminates its
 4089 corporate existence, it shall file with the Commission an application for withdrawal. Whether or not such
 4090 application is filed, the termination of the corporate existence of such foreign corporation shall not take away
 4091 or impair any remedy available against such corporation for any right or claim existing or any liability
 4092 incurred prior to such termination. Any such action or proceeding against such foreign corporation may be
 4093 defended by such corporation in its corporate name. The members, directors and officers shall have power to
 4094 take such corporate or other action as shall be appropriate to protect such remedy, right or claim. The right of
 4095 a foreign corporation that has terminated its corporate existence to institute and maintain in its corporate
 4096 name actions, suits or proceedings in the courts of the Commonwealth shall be governed by the law of the
 4097 state *jurisdiction of its incorporation formation*.

4098 E. D. Service of process on the clerk of the Commission is service of process on a foreign corporation that
 4099 has withdrawn *its certificate of authority* pursuant to this section. Service upon the clerk shall be made in
 4100 accordance with § 12.1-19.1, and service upon the foreign corporation may be made in any other manner
 4101 permitted by law.

4102 § 13.1-930. Automatic revocation of certificate of authority.

4103 A. If any foreign corporation fails to file its annual report or pay its annual registration fee in a timely
 4104 manner as required by this chapter, the Commission shall mail to each such corporation notice of the
 4105 impending revocation of its certificate of authority to transact business in the Commonwealth. Whether or not
 4106 such notice is mailed, if any foreign corporation fails to file its annual report or pay its annual registration fee
 4107 on or before the last day of the fourth month immediately following its annual report or annual registration
 4108 fee due date each year, such foreign corporation shall automatically cease to be authorized to transact
 4109 business in the Commonwealth and its certificate of authority shall be automatically revoked as of that day.

4110 B. Every foreign corporation authorized to transact business in the Commonwealth shall pay the annual
 4111 registration fee required by law on or before the foreign corporation's annual registration fee due date
 4112 determined in accordance with subsection A of § 13.1-936.1 of each year.

4113 C. If any foreign corporation whose registered agent has filed with the Commission *his a* statement of
 4114 resignation pursuant to § 13.1-927 fails to file a statement of change pursuant to § 13.1-926 within 31 days
 4115 after the date on which the statement of resignation was filed, the Commission shall mail notice to the foreign
 4116 corporation of impending revocation of its certificate of authority. If the foreign corporation fails to file the
 4117 statement of change before the last day of the second month immediately following the month in which the
 4118 impending revocation notice was mailed, the foreign corporation shall automatically cease to be authorized to
 4119 transact business in the Commonwealth and its certificate of authority shall be automatically revoked as of
 4120 that day.

4121 D. The automatic revocation of a foreign corporation's certificate of authority pursuant to this section
 4122 constitutes the appointment of the clerk of the Commission as *the foreign corporation's an* agent for service of
 4123 process *upon the foreign corporation* in any proceeding based on a cause of action arising during the time the
 4124 foreign corporation was authorized to transact business in the Commonwealth. Service of process on the clerk
 4125 of the Commission under this subsection is service on the foreign corporation and shall be made on the clerk
 4126 in accordance with § 12.1-19.1.

4127 E. Revocation of a foreign corporation's certificate of authority pursuant to this section does not terminate
 4128 the authority of the registered agent of the corporation.

4129 § 13.1-931. Involuntary revocation of certificate of authority.

4130 A. The certificate of authority to transact business in the Commonwealth of any foreign corporation may
 4131 be revoked by order of the Commission when it finds that *the such foreign corporation*:

- 4132 1. Has continued to exceed the authority conferred upon it by law;
- 4133 2. Has failed to maintain a registered office or a registered agent in the Commonwealth as required by
 4134 law;
- 4135 3. Has failed to file any document required by this *Act chapter* to be filed with the Commission;
- 4136 4. No longer exists under the laws of the *state or country jurisdiction of its incorporation formation*; or
- 4137 5. Has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its officers and
 4138 directors constituting a pattern or practice of employing unauthorized aliens in the Commonwealth.

4139 A certificate of authority revoked pursuant to subdivision A 5 shall not be eligible for reinstatement for a
 4140 period of not less than one year.

4141 B. Any foreign corporation convicted of the offense listed in subdivision A 5 shall immediately report
 4142 such conviction to the Commission and file with the Commission an authenticated copy of the judgment or
 4143 record of conviction.

4144 C. Before entering *any such an order revoking the certificate of authority of a foreign corporation under*
 4145 *subsection A*, the Commission shall issue a rule against the *foreign corporation* giving it an opportunity to be
 4146 heard and show cause why such an order should not be entered. The Commission may issue the rule on its
 4147 own motion or on motion of the Attorney General.

4148 D. The authority of a foreign corporation to transact business in the Commonwealth ceases on the date
 4149 shown on the order revoking its certificate of authority.

4150 E. The Commission's revocation of a foreign corporation's certificate of authority appoints the clerk of the
4151 Commission the foreign corporation's agent for service of process in any proceeding based on a cause of
4152 action arising during the time the foreign corporation was authorized to transact business in the
4153 Commonwealth. Service of process on the clerk of the Commission under this subsection is service on the
4154 foreign corporation and shall be made on the clerk in accordance with § 12.1-19.1.

4155 F. Revocation of a foreign corporation's certificate of authority does not terminate the authority of the
4156 registered agent of the corporation.

**4157 § 13.1-931.1. Reinstatement of foreign corporation whose certificate of authority has been
4158 withdrawn or revoked.**

4159 A. A foreign corporation whose certificate of authority to transact business in the Commonwealth has
4160 been withdrawn or revoked may be relieved of the withdrawal or revocation and have its certificate of
4161 authority reinstated by the Commission within five years after the date of withdrawal or revocation unless the
4162 certificate of authority was revoked by order of the Commission pursuant to subdivision A 1 of § 13.1-931.

4163 B. To have its certificate of authority reinstated, a foreign corporation shall provide the Commission with
4164 the following:

4165 1. An application for reinstatement, which shall include the identification number issued by the
4166 Commission to the corporation, and which may be in the form of a letter signed by an officer or director of
4167 the corporation, or which may be by affidavit signed by an agent of any member's interests stating that after
4168 diligent search by such agent, no officer or director can be found;

4169 2. A reinstatement fee of \$10 \$100;

4170 3. All annual registration fees and penalties that were due before the certificate of withdrawal was issued
4171 or the certificate of authority was revoked and that would have been assessed or imposed to the date of
4172 reinstatement if the corporation had not withdrawn or had its certificate of authority revoked;

4173 4. An annual report for the calendar year that corresponds to the calendar year of the latest annual
4174 registration fee that was assessed or that would have been assessed to the date of reinstatement;

4175 5. A duly authenticated copy of any amendments or corrections made to the articles of incorporation or
4176 other constituent documents of the foreign corporation and any ~~mergers merger, conversion, or domestication~~
4177 *transaction* entered into by the foreign corporation from the date of withdrawal or revocation of its certificate
4178 of authority to the date of its application for reinstatement, along with an application for an amended
4179 certificate of authority if required as a result of ~~an~~ any such amendment or a, correction, or transaction and
4180 all fees required by this chapter for the filing of such instruments;

4181 6. If the name of the foreign corporation does not comply with the provisions of § 13.1-924 at the time of
4182 reinstatement, an application for an amended certificate of authority to adopt a designated name for use in the
4183 Commonwealth that satisfies the requirements of § 13.1-924, with the fee required by this chapter for the
4184 filing of an application for an amended certificate of authority; and

4185 7. If the foreign corporation's registered agent has filed a statement of resignation and a new registered
4186 agent has not been appointed, a statement of change pursuant to § 13.1-926.

4187 C. If the foreign corporation complies with the provisions of this section, the Commission shall enter an
4188 order of reinstatement, reinstating the foreign corporation's certificate of authority to transact business in the
4189 Commonwealth.

4190 § 13.1-932. Corporate records.

4191 A. A corporation shall keep as permanent records minutes of all meetings of its members and board of
4192 directors, a record of all actions taken by the members or board of directors without a meeting, and a record
4193 of all actions taken by a committee of the board of directors in place of the board of directors on behalf of the
4194 corporation.

4195 B. A corporation shall maintain ~~appropriate~~ accounting records *in a form that permits preparation of its*
4196 *financial statements.*

4197 C. *A If the corporation or its agent has members, it shall maintain a record of its current members; in a*
4198 *form that permits preparation of a list of the names and addresses of all members, in alphabetical order by*
4199 *class, if any. Nothing in this subsection shall require the corporation to maintain, include in such record, or*
4200 *distribute to its members the electronic mail address or other electronic contact information of any member.*

4201 D. A corporation shall maintain ~~its~~ the records *in written form* provided for in subsections C and E and
4202 subsection B of § 13.1-933 *in the form of a document, including an electronic record or in another form*
4203 *capable of conversion into written paper form within a reasonable time.*

4204 E. A corporation shall ~~keep a copy of~~ maintain the following records:

4205 1. ~~Its articles or restated~~ A copy of its articles of incorporation, ~~all amendments to them as~~ currently in
4206 effect, and any notices to members referred to in subdivision E K 5 of § 13.1-804 ~~regarding~~ specifying facts
4207 on which a filed document is dependent if those facts are not included in the articles of incorporation or
4208 otherwise available as specified in subdivision K 5 of 13.1-804;

4209 2. Its bylaws ~~or restated bylaws and all amendments to them as~~ currently in effect;

4210 3. ~~Resolutions~~ If the corporation has members, resolutions adopted by its board of directors creating one
4211 or more classes of members, and fixing their relative rights, preferences, and limitations;

4. *If the corporation has members, the* minutes of all members' meetings, and records of all action
 4212 taken by members without a meeting, for the past three years;

5. *All If the corporation has members, all* written communications to members generally within the past
 4213 three years;

6. A list of the names and business addresses of its current directors and officers; and
 4214
 7. *Its A copy of its* most recent annual report ~~delivered to~~ filed with the Commission under § 13.1-936.

§ 13.1-933. Inspection of records by members.

A. Subject to subsection *E D* of § 13.1-934, a member of a corporation is entitled to inspect and copy,
 4215 during regular business hours at the corporation's principal office, any of the records of the corporation
 4216 described in subsection *E* of § 13.1-932 if ~~he gives the corporation the member delivers a signed~~ written
 4217 notice ~~of his to the corporation's secretary of his~~ demand at least ~~five~~ 10 business days before the date on
 4218 which he wishes to inspect and copy.

B. A member of a corporation is entitled to inspect and copy, during regular business hours at a
 4219 reasonable location specified by the corporation, any of the following records of the corporation if the
 4220 member meets the requirements of subsection C and ~~gives the corporation delivers a signed~~ written notice ~~of his to the corporation's secretary of the member's~~ demand at least ~~five~~ 10 business days before the date on
 4221 which he wishes to inspect and copy:

1. Excerpts from minutes of any meeting of, *or records of any actions taken without meeting by*, the board
 4222 of directors; ~~records of any action of or~~ a committee of the board of directors while acting in place of the
 4223 board of directors on behalf of the corporation; ~~minutes of any meeting of the members, and records of action~~
 4224 ~~taken by the members or board of directors without a meeting, to the extent not subject to inspection under~~
 4225 ~~subsection A;~~

2. Accounting ~~records of the corporation ledgers and related work papers used in the preparation of the~~
 4226 ~~corporation's most recent annual financial statements;~~ and

3. The record of members *maintained in accordance with subsection C of § 13.1-932.*

C. A member may inspect and copy the records ~~identified described~~ in subsection B only if:

1. *He* The member has been a member of record for at least six months immediately preceding ~~his such~~
 4227 member's demand;

2. *His* The member's demand is made in good faith and for a proper purpose;

3. *He* The member's demand describes with reasonable particularity ~~his such member's~~ purpose and the
 4228 records that ~~he such member~~ desires to inspect and copy; and

4. The records are directly connected with ~~his the member's~~ purpose.

D. *The corporation may enforce reasonable restrictions on the confidentiality, use, or distribution of*
 4229 *records described in subsection B.*

E. The right of inspection granted by this section ~~may shall~~ not be abolished or limited by a corporation's
 4230 articles of incorporation or bylaws.

F. This section does not affect:

1. The right of a member to inspect records *under § 13.1-845 or*, if the member is in litigation with the
 4231 corporation, to the same extent as any other litigant; or

2. The power of a court, independently of this ~~Act chapter~~, to compel the production of ~~corporate such~~
 4232 ~~records for examination as the court shall order after finding that the member has established that the~~
 4233 ~~member has satisfied the requirements of subsection C and that (i) the records that the member seeks are~~
 4234 ~~material to the protection of the member's rights as a member and (ii) the disclosure of the records will not~~
 4235 ~~adversely affect the corporation's interest.~~

G. *Without consent of the board of directors, a membership list or any part thereof shall not be obtained*
 4236 *or used by any person for any purpose unrelated to a member's interest as a member. Without limiting the*
 4237 *generality of the foregoing, without the consent of the board a membership list or any part thereof shall not*
 4238 *be:*

1. *Used to solicit money or property unless the money or property will be used solely to solicit the votes of*
 4239 *the members in an election to be held by the corporation;*

2. *Used for any commercial purpose; or*

3. *Sold to or purchased by any person.*

§ 13.1-934. Scope of inspection right.

A. A member's member may appoint an agent or attorney ~~has to exercise the same~~ member's inspection
 4240 and copying rights as the member ~~he represents~~ under § 13.1-933.

B. The corporation may satisfy the right of a member to copy records ~~under § 13.1-933 includes, if~~
 4241 ~~reasonable, the right to receive by furnishing the member copies by xerographic photocopy or other means~~
 4242 ~~chosen by the corporation, including furnishing copies through an electronic transmission if available and so~~
 4243 ~~requested by the member.~~

C. The corporation may impose a reasonable charge, covering the costs of labor and material, for copies
 4244 of any documents provided to the member. The charge may not exceed the estimated cost of production,
 4245 reproduction, and transmission of the records.

4274 D. The corporation may comply with a member's demand to inspect the record of members under
4275 subdivision B 3 of § 13.1-933 by providing the member with a list of its members that was compiled no
4276 earlier than the date of *delivery* of the member's demand.

4277 D. *The corporation may impose a reasonable charge to cover the costs of providing copies of documents*
4278 *to the member, which may be based on an estimate of such costs.*

4279 **§ 13.1-935. Court-ordered inspection.**

4280 A. If a corporation does not allow a member who complies with subsection A of § 13.1-933 to inspect and
4281 copy any records required by that subsection to be available for inspection, the circuit court in the city or
4282 county where the corporation's principal office is located, or, if none in this Commonwealth, where its
4283 registered office is located, may summarily order inspection and copying of the records demanded at the
4284 corporation's expense upon application of the member.

4285 B. If a corporation does not within a reasonable time allow a member to ~~inspect and copy any other~~
4286 ~~record, the member~~ who complies with subsections B and C of § 13.1-933 to *inspect and copy the records*
4287 *required by subsection B of § 13.1-933, the member* may apply to the circuit court in the city or county where
4288 the corporation's principal office is located, or, if none in ~~this~~ the Commonwealth, where its registered office
4289 is located, for an order to permit inspection and copying of the records demanded. The court shall dispose of
4290 an application under this subsection on an expedited basis.

4291 C. *If the court orders inspection and copying of the records demanded, it may impose reasonable*
4292 *restrictions on their confidentiality, use, or distribution by the demanding member.* If the court orders
4293 inspection and copying of the records demanded, it may also order the corporation to pay the member's ~~costs~~,
4294 ~~including reasonable counsel fees, expenses~~ incurred to obtain the order if the member proves that the
4295 corporation (i) refused inspection without a reasonable basis for doubt about the right of the member to
4296 inspect the records demanded or (ii) imposed unreasonable restrictions on the confidentiality, use, or
4297 distribution of the records demanded.

4298 D. *If the court orders inspection and copying of the records demanded, it may impose reasonable*
4299 *restrictions on the use or distribution of the records by the demanding member.*

4300 **§ 13.1-935.1. Inspection of records by directors.**

4301 A. A director of a corporation is entitled to inspect and copy the books, records, and documents of the
4302 corporation at any reasonable time to the extent reasonably related to the performance of ~~his~~ the director's
4303 duties as a director, including duties as a member of a committee, but not for any other purpose or in any
4304 manner that would violate any duty to the corporation.

4305 B. The circuit court of the city or county where the corporation's principal office or, if none in the
4306 Commonwealth, its registered office is located may order inspection and copying of the books, records, and
4307 documents *at the corporation's expense* upon application of a director who has been refused such inspection
4308 rights, unless the corporation establishes that the director is not entitled to such inspection rights. The court
4309 shall dispose of an application under this subsection on an expedited basis.

4310 C. If an order is issued, the court may include provisions protecting the corporation from undue burden or
4311 expense and prohibiting the director from using information obtained upon exercise of the inspection rights in
4312 a manner that would violate a duty to the corporation and may also order the corporation to reimburse the
4313 director for ~~his reasonable costs, including reasonable counsel fees, the director's expenses~~ incurred in
4314 connection with the application if the director proves that the corporation refused inspection without a
4315 reasonable basis for doubt about the director's right to inspect the records demanded.

4316 **§ 13.1-935.2. Financial statements for members.**

4317 A. *Upon the written request of a member, a corporation shall deliver or make available to the requesting*
4318 *member by posting on its website or by other generally recognized means financial statements for the most*
4319 *recent fiscal year for which annual financial statements have been prepared for the corporation. The*
4320 *financial statements may be consolidated or combined statements of the corporation and one or more of its*
4321 *subsidiaries, as appropriate, that include a balance sheet as of the end of the corporation's fiscal year and an*
4322 *income statement for that year unless that information appears elsewhere in the financial statements. If*
4323 *financial statements for the specified period have been prepared for the corporation on the basis of generally*
4324 *accepted accounting principles, the corporation shall deliver or make available such financial statements to*
4325 *the requesting member.*

4326 B. *If the annual financial statements are audited or otherwise reported upon by a public accountant, the*
4327 *accountant's report shall accompany them. If the annual financial statements are not reported upon by a*
4328 *public accountant, the president or the person responsible for the corporation's accounting records shall*
4329 *provide the member with a statement of the basis of accounting used in preparation of the annual financial*
4330 *statements and a description of any respects in which the statements were not prepared on a basis of*
4331 *accounting consistent with the statements prepared for the preceding year.*

4332 C. *Notwithstanding the provisions of subsections A and B:*

4333 1. *As a condition to delivering or making available financial statements to a requesting member, the*
4334 *corporation may require the requesting member to agree to reasonable restrictions on the confidentiality,*
4335 *use, and distribution of such financial statements; and*

4336 2. The corporation may, if it reasonably determines that the member's request is not made in good faith or
 4337 for a proper purpose, decline to deliver or make available such financial statements to that member.

4338 D. If a corporation does not respond to a member's request for financial statements pursuant to
 4339 subsection A within 30 days of delivery of such request to the corporation's secretary:

4340 1. The requesting member may apply to the circuit court in the city or county where the corporation's
 4341 principal office is located or, if none in the Commonwealth, where its registered office is located for an order
 4342 requiring delivery of or access to the requested financial statements. The court shall dispose of an
 4343 application under this subsection on an expedited basis.

4344 2. If the court orders delivery or access to the requested financial statements, it may impose reasonable
 4345 restrictions on their confidentiality, use, or distribution.

4346 3. In such proceeding, if the corporation has declined to deliver or make available such financial
 4347 statements because the requesting member had been unwilling to agree to restrictions proposed by the
 4348 corporation on the confidentiality, use, or distribution of such financial statements, the corporation shall
 4349 have the burden of demonstrating that the restrictions proposed by the corporation were reasonable.

4350 4. In such proceeding, if the corporation has declined to deliver or make available such financial
 4351 statements pursuant to subdivision C 2, the corporation shall have the burden of demonstrating that it had
 4352 reasonably determined that the member's request was not made in good faith or for a proper purpose.

4353 5. If the court orders delivery or access to the requested financial statements, it may order the corporation
 4354 to pay the member's expenses incurred to obtain such order unless the corporation establishes that it had
 4355 refused delivery or access to the requested financial statements because the member had refused to agree to
 4356 reasonable restrictions on the confidentiality, use, or distribution of the financial statements or that the
 4357 corporation had reasonably determined that the member's request was not made in good faith or for a proper
 4358 purpose.

§ 13.1-936. Annual report of domestic and foreign corporations.

4360 A. Each domestic corporation, and each foreign corporation authorized to transact business in the
 4361 Commonwealth, shall file, within the time prescribed by this section, an annual report setting forth:

4362 1. The name of the corporation, the address of its principal office and the state or country under whose
 4363 laws it is incorporated jurisdiction of formation;

4364 2. The address of the registered office of the corporation in the Commonwealth, including both (i) the post
 4365 office address with street and number, if any, and (ii) the name of the county or city in which it is located, and
 4366 the name of its registered agent in the Commonwealth at such address; and

4367 3. The names and post office addresses of the directors and the principal officers of the corporation.

4368 B. The report shall be made on forms a form prescribed and furnished by the Commission, and shall
 4369 supply the information as of the date of the report.

4370 C. Except as otherwise provided in this subsection, the annual report of a domestic or foreign corporation
 4371 shall be filed with the Commission on or before the last day of the twelfth month next succeeding the month
 4372 in which it was incorporated or authorized to transact business in the Commonwealth, and on or before such
 4373 date in each year thereafter. The report shall be filed no earlier than three months prior to its due date each
 4374 year. If the report appears to be incomplete or inaccurate, the Commission shall return it for correction or
 4375 explanation. Otherwise the Commission shall file it in the clerk's office. At the discretion of the Commission
 4376 the annual report due date for a corporation may be extended, on a monthly basis for a period of not less than
 4377 one month nor more than 11 months, at the request of its registered agent of record or as may be necessary to
 4378 distribute annual report due dates of corporations as equally as practicable throughout the year on a monthly
 4379 basis.

**§ 13.1-936.1. Annual registration fees to be paid by domestic and foreign corporations; penalty for
 4381 failure to pay timely.**

4382 A. Every domestic corporation and every foreign corporation authorized to conduct its affairs transact
 4383 business in the Commonwealth shall pay into the state treasury on or before the last day of the twelfth month
 4384 next succeeding the month in which it was incorporated or authorized to conduct its affairs transact business
 4385 in the Commonwealth, and by such date in each year thereafter, an annual registration fee of \$25, provided
 4386 that for a domestic corporation that became a domestic corporation by conversion from a domestic stock
 4387 corporation or eligible entity or by domestication or conversion from a foreign corporation or eligible entity
 4388 that was authorized or registered to transact business in the Commonwealth at the time of the conversion or
 4389 domestication, the annual registration fee shall be paid each year on or before the date on which its annual
 4390 registration fee was due prior to the conversion or domestication. At the discretion of the Commission, the
 4391 annual registration fee due date for a corporation may be extended, on a monthly basis for a period of not less
 4392 than one month nor more than 11 months, at the request of its registered agent of record or as may be
 4393 necessary to distribute annual registration fee due dates of corporations as equally as practicable throughout
 4394 the year on a monthly basis.

4395 The annual registration fee shall be irrespective of any specific license tax or other tax or fee imposed by
 4396 law upon the corporation for the privilege of carrying on its business in the Commonwealth or upon its
 4397 franchise, property, or receipts. Nonstock corporations incorporated before 1970 that were not liable for the

4398 annual registration fee therefor shall not be liable for an annual registration fee hereafter.

4399 B. Each year, the Commission shall ascertain from its records each domestic corporation and each foreign
4400 corporation authorized to ~~conduct its affairs~~ *transact business* in the Commonwealth, as of the first day of the
4401 second month next preceding the month in which it was incorporated or authorized to transact business in the
4402 Commonwealth and shall assess against each such corporation the annual registration fee herein imposed.
4403 Notwithstanding the foregoing, for a domestic corporation that became a domestic corporation by conversion
4404 from a domestic stock corporation *or eligible entity* or by domestication *or conversion* from a foreign
4405 corporation *or eligible entity* that was authorized to transact business in the Commonwealth at the time of the
4406 domestication *or conversion*, the assessment shall be made as of the first day of the second month preceding
4407 the month in which its annual registration fee was due prior to the conversion or domestication. In any year in
4408 which a corporation's annual registration fee due date is extended pursuant to subsection A, the annual
4409 registration fee assessment shall be increased by a prorated amount to cover the period of extension. A
4410 statement of the assessment, when made, shall be forwarded by the clerk of the Commission to the
4411 Comptroller and to each such corporation.

4412 C. Any domestic or foreign corporation that fails to pay the annual registration fee herein imposed within
4413 the time prescribed shall incur a penalty of \$10, which shall be added to the amount of the annual registration
4414 fee due. The penalty shall be in addition to any other penalty or liability imposed by law.

4415 D. The fees paid into the state treasury under this section shall be set aside as a special fund to be used
4416 only by the Commission as it deems necessary to defray all costs of staffing, maintaining and operating the
4417 office of the clerk of the Commission, together with all other costs incurred by the Commission in
4418 supervising, implementing and administering the provisions of Part 5 (§ 8.9A-501 et seq.) of Title 8.9A, this
4419 title, except for Chapters 5 (§ 13.1-501 et seq.) and 8 (§ 13.1-557 et seq.) and Article 7 (§ 55.1-653 et seq.) of
4420 Chapter 6 of Title 55.1, provided that one-half of the fees collected shall be credited to the general fund. The
4421 excess of fees collected over the projected costs of administration in the next fiscal year shall be paid into the
4422 general fund prior to the close of the fiscal year.

4423 **§ 13.1-937. Application to existing corporations.**

4424 Unless otherwise provided, the provisions of this chapter shall apply to all domestic and foreign
4425 corporations existing at the time this chapter takes effect and their members. The ~~charter~~ *articles of*
4426 *incorporation and bylaws* of every corporation ~~heretofore or hereafter~~ organized in ~~this~~ the Commonwealth
4427 shall be subject to the provisions of this chapter. In the case of foreign corporations, the certificate of
4428 authority to transact business in ~~this~~ the Commonwealth issued by the Commission under any prior act of this
4429 Commonwealth shall continue in effect subject to the provisions hereof.

4430 **§ 13.1-939. Saving provision.**

4431 A. Except as provided in subsection B, the repeal of a statute by this ~~Aet chapter~~ does not affect:
4432 1. The operation of the statute or any action taken under it before its repeal;
4433 2. Any ratification, right, remedy, privilege, obligation or liability acquired, accrued, or incurred under the
4434 statute before its repeal;
4435 3. Any violation of the statute, or any penalty, forfeiture or punishment incurred because of the violation,
4436 before its repeal; or
4437 4. Any proceeding commenced, or reorganization or dissolution authorized by the board of directors,
4438 under the statute before its repeal, and the proceeding, reorganization or dissolution may be completed in
4439 accordance with the statute as if it had not been repealed.

4440 B. If a penalty or punishment imposed for violation of a statute repealed by this ~~Aet chapter~~ is reduced by
4441 this ~~Aet chapter~~, the penalty or punishment if not already imposed shall be imposed in accordance with this
4442 ~~Aet chapter~~.

4443 C. If any provision of this chapter is deemed to modify, limit, or supersede the federal Electronic
4444 Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., the provisions of this chapter
4445 shall control to the maximum extent permitted by 15 U.S.C. § 7002(a)(2).

4446 **§ 13.1-945. Property title records.**

4447 A. Whenever the records in the office of the clerk of the Commission reflect that a domestic or foreign
4448 corporation has changed or corrected its name, merged into a domestic or foreign ~~limited liability company~~,
4449 corporation, ~~business trust, limited partnership or partnership~~ *or eligible entity*, converted into a domestic or
4450 foreign ~~limited liability company, business trust, limited partnership or partnership~~ *or eligible entity*, or
4451 domesticated in or from another jurisdiction, the clerk of the Commission, upon request, shall issue a
4452 certificate reciting such change, correction, merger, conversion or domestication. The certificate may be
4453 admitted to record in the deed books, in accordance with § 17.1-227, of any clerk's office within the
4454 jurisdiction of which any property of the corporation is located in order to maintain the continuity of title
4455 records. The person filing the certificate shall pay a fee of \$10 to the clerk of the court, but no tax shall be due
4456 thereon.

4457 B. Whenever a foreign corporation has changed or corrected its name, merged into another business
4458 entity, converted into another type of business entity, or domesticated in another jurisdiction, and it cannot or
4459 chooses not to obtain a certificate reciting such change, correction, merger, conversion or domestication from

4460 the clerk of the Commission pursuant to subsection A, a similar certificate by any competent authority of the
 4461 foreign corporation's jurisdiction of incorporation may be admitted to record in the deed books, in accordance
 4462 with § 17.1-227, of any clerk's office within the jurisdiction of which any property of the corporation is
 4463 located in order to maintain the continuity of title records. The person filing the certificate shall pay a fee of
 4464 \$10 to the clerk of the court, but no tax shall be due thereon.

4465 **§ 13.1-1002. Definitions.**

4466 As used in this chapter, unless the context requires a different meaning:

4467 "Articles of organization" means all documents constituting, at any particular time, the articles of
 4468 organization of a limited liability company. The articles of organization include the original articles of
 4469 organization, the original certificate of organization issued by the Commission, and all amendments to the
 4470 articles of organization. When the articles of organization have been restated pursuant to any articles of
 4471 restatement, amendment, domestication, or merger, the articles of organization include only the restated
 4472 articles of organization without the articles of restatement, amendment, domestication, or merger.

4473 "Assignee" means a person to which all or part of a membership interest has been transferred, whether or
 4474 not the transferor is a member.

4475 "Bankruptcy" means, with respect to any person, being the subject of an order for relief under Title 11 of
 4476 the United States Code.

4477 "Commission" means the State Corporation Commission of Virginia.

4478 "Contribution" means any cash, property or services rendered, or a promissory note or other binding
 4479 obligation to contribute cash or property or to perform services, which a member contributes to a limited
 4480 liability company in his capacity as a member.

4481 "Distribution" means a direct or indirect transfer of money or other property, or incurrence of
 4482 indebtedness by a limited liability company, to or for the benefit of its members in respect of their interests.

4483 "Domestic," with respect to an entity, means an entity governed as to its internal affairs by the organic law
 4484 of the Commonwealth.

4485 "Domestic business trust" has the same meaning as specified in § 13.1-1201.

4486 "Domestic corporation" has the same meaning as specified in § 13.1-603.

4487 "Domestic limited partnership" has the same meaning as specified in § 50-73.1.

4488 "Domestic nonstock corporation" has the same meaning as "domestic corporation" as specified in
 4489 § 13.1-803.

4490 "Domestic partnership" means an association of two or more persons to carry on as co-owners a business
 4491 for profit formed under § 50-73.88, or predecessor law of the Commonwealth, and includes, for all purposes
 4492 of the laws of the Commonwealth, a registered limited liability partnership.

4493 "Domestic stock corporation" has the same meaning as "domestic corporation" as specified in § 13.1-603.

4494 "Effective date," when referring to a document for which effectiveness is contingent upon issuance of a
 4495 certificate by the Commission, means the time and date determined in accordance with § 13.1-1004.

4496 "Electronic transmission" means any form of communication, not directly involving the physical
 4497 transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient
 4498 thereof, and that may be directly reproduced in paper form by the recipient through an automated process.
 4499 Any term used in this definition that is defined in § 59.1-480 of the Uniform Electronic Transactions Act
 4500 (§ 59.1-479 et seq.) shall have the meaning set forth in that section.

4501 "Eligible interests" means, as to a partnership, partnership interest as specified in § 50-73.79; as to a
 4502 limited partnership, partnership interest as specified in § 50-73.1; as to a business trust, the beneficial interest
 4503 of a beneficial owner as specified in § 13.1-1226; as to a stock corporation, shares as specified in § 13.1-603;
 4504 or, as to a nonstock corporation, membership interest as specified in § 13.1-803.

4505 "Entity" includes any domestic or foreign limited liability company, any domestic or foreign other
 4506 business entity, any estate or trust, and any state, the United States, and any foreign government.

4507 "Entity conversion" means conversion. A certificate of entity conversion is the same as a certificate of
 4508 conversion.

4509 "Foreign," with respect to an entity, means an entity governed as to its internal affairs by the organic law
 4510 of a jurisdiction other than the Commonwealth.

4511 "Foreign business trust" has the same meaning as specified in § 13.1-1201.

4512 "Foreign corporation" has the same meaning as specified in § 13.1-603.

4513 "Foreign limited liability company" means an entity, excluding a foreign business trust, that is an
 4514 unincorporated organization that is organized under laws other than the laws of the Commonwealth and that
 4515 is denominated by that law as a limited liability company, and that affords to each of its members, pursuant to
 4516 the laws under which it is organized, limited liability with respect to the liabilities of the entity.

4517 "Foreign limited partnership" has the same meaning as specified in § 50-73.1.

4518 "Foreign nonstock corporation" has the same meaning as "foreign corporation" as specified in § 13.1-803.

4519 "Foreign partnership" means an association of two or more persons to carry on as co-owners a business
 4520 for profit formed under the laws of any state or jurisdiction other than the Commonwealth, and includes, for
 4521 all purposes of the laws of the Commonwealth, a foreign registered limited liability partnership.

4522 "Foreign protected series" means a protected series established by a foreign series limited liability
4523 company and having attributes comparable to a protected series established under Article 16 (§ 13.1-1088 et
4524 seq.). The term applies whether or not the law under which the foreign series limited liability company is
4525 organized refers to "protected series" or "series."

4526 "Foreign registered limited liability partnership" has the same meanings as specified in §§ 50-2 and
4527 50-73.79.

4528 "Foreign series limited liability company" means a foreign limited liability company having at least one
4529 foreign protected series.

4530 "Foreign stock corporation" has the same meaning as "foreign corporation" as specified in § 13.1-603.

4531 "Jurisdiction," when used to refer to a political entity, means the United States, a state, a foreign country,
4532 or a political subdivision of a foreign country.

4533 "Jurisdiction of formation" means the state or country the law of which includes the organic law
4534 governing a domestic or foreign limited liability company or other business entity.

4535 "Limited liability company" or "domestic limited liability company" means an entity that is an
4536 unincorporated organization organized and existing under this chapter, or that has become a domestic limited
4537 liability company of the Commonwealth pursuant to § 13.1-1010.3 as it existed prior to its repeal, even
4538 though also being a non-United States entity organized under laws other than the laws of the Commonwealth,
4539 or that has become a domestic limited liability company of the Commonwealth pursuant to § 56-1, even
4540 though also being a non-United States entity organized under laws other than the laws of the Commonwealth,
4541 or that has become a domestic limited liability company of the Commonwealth pursuant to § 13.1-1010.1 as
4542 it existed prior to its repeal, or that has become a domestic limited liability company of the Commonwealth
4543 pursuant to Article 12.2 (§ 13.1-722.8 et seq.) of Chapter 9, Article 17.1 (§ 13.1-944.1 et seq.) 11.2
4544 (§ 13.1-898.8 et seq.) of Chapter 10, Article 14 (§ 13.1-1074 et seq.) or Article 15 (§ 13.1-1081 et seq.) of
4545 this chapter, or Article 12 (§ 13.1-1264 et seq.) of Chapter 14. A limited liability company's status for federal
4546 tax purposes shall not affect its status as a distinct entity organized and existing under this chapter.

4547 "Manager" or "managers" means a person or persons designated by the members of a limited liability
4548 company to manage the limited liability company as provided in the articles of organization or an operating
4549 agreement.

4550 "Manager-managed limited liability company" means a limited liability company that is managed by a
4551 manager or managers as provided for in its articles of organization or an operating agreement.

4552 "Member" means a person that has been admitted to membership in a limited liability company as
4553 provided in § 13.1-1038.1 and that has not ceased to be a member.

4554 "Member-managed limited liability company" means a limited liability company that is not a manager-
4555 managed limited liability company.

4556 "Membership interest" or "interest" means a member's share of the profits and the losses of the limited
4557 liability company and the right to receive distributions of the limited liability company's assets.

4558 "Non-United States entity" means a foreign limited liability company (other than one formed under the
4559 laws of a state), or a corporation, business trust or association, real estate investment trust, common-law trust,
4560 or any other unincorporated business, including a partnership, formed, incorporated, organized, created or
4561 that otherwise came into being under the laws of any foreign country or other foreign jurisdiction (other than
4562 any state).

4563 "Operating agreement" means an agreement of the members as to the affairs of a limited liability company
4564 and the conduct of its business, or a writing or agreement of a limited liability company with one member
4565 that satisfies the requirements of subdivision A 2 of § 13.1-1023.

4566 "Organic law" means the statute governing the internal affairs of a domestic or foreign limited liability
4567 company or other business entity.

4568 "Organization surrender" has the same meaning as specified in § 13.1-1074. A certificate of organization
4569 surrender is the same as a certificate of domestication.

4570 "Other business entity" means a domestic or foreign partnership, limited partnership, business trust, stock
4571 corporation, or nonstock corporation.

4572 "Person" has the same meaning as specified in § 13.1-603. "Person" includes a protected series.

4573 "Principal office" means the office, in or out of the Commonwealth, where the principal executive offices
4574 of a domestic or foreign limited liability company are located or, if there are no such offices, the office, in or
4575 out of the Commonwealth, so designated by the limited liability company. The designation of the principal
4576 office in the most recent statement of change filed pursuant to § 13.1-1018.1 shall be conclusive for the
4577 purpose of this chapter.

4578 "Property" means all property, whether real, personal, or mixed or tangible or intangible, or any right or
4579 interest therein.

4580 "Protected series," except in the term "foreign protected series," means a person established under
4581 § 13.1-1095.

4582 "Record," when used as a noun, means information that is inscribed on a tangible medium or that is stored
4583 in an electronic or other medium and is retrievable in perceivable form.

4584 "Registered limited liability partnership" has the same meaning as specified in § 50-73.79.

4585 "Series limited liability company," except in the term "foreign series limited liability company," means a

4586 limited liability company having at least one protected series.

4587 "Sign" means, with present intent to authenticate or adopt a record, to execute or adopt a tangible symbol

4588 or to attach to or logically associate with the record an electronic symbol, sound, or process.

4589 "State," when referring to a part of the United States, includes a state, commonwealth and the District of

4590 Columbia, and their agencies and governmental subdivisions; and a territory or insular possession, and their

4591 agencies and governmental subdivisions, of the United States.

4592 "Transfer" includes an assignment, a conveyance, a sale, a lease, an encumbrance including a mortgage or

4593 security interest, a gift, and a transfer by operation of law.

4594 "United States" includes a district, authority, bureau, commission, department, and any other agency of

4595 the United States.

4596 **§ 13.1-1082. Entity conversion.**

4597 A. A domestic limited liability company may become a domestic stock corporation or a domestic business

4598 trust pursuant to a plan of entity conversion that is approved by the limited liability company in accordance

4599 with the provisions of this article.

4600 B. A domestic stock corporation may become a domestic limited liability company pursuant to a plan of

4601 entity conversion that is adopted and approved by the corporation in accordance with the provisions of

4602 Article 12.2 (§ 13.1-722.8 *et seq.*) of Chapter 9.

4603 C. A domestic nonstock corporation may become a domestic limited liability company pursuant to a plan

4604 of ~~entity~~ conversion that is adopted and approved by the corporation in accordance with the provisions of

4605 Article 17.1 (§ 13.1-944.1 *et seq.*) 11.2 (§ 13.1-898.8 *et seq.*) of Chapter 10.

4606 D. A domestic business trust may become a domestic limited liability company pursuant to a plan of

4607 entity conversion that is approved by the business trust in accordance with the provisions of Article 12

4608 (§ 13.1-1264 *et seq.*) of Chapter 14.

4609 E. Unless otherwise provided for in Chapter 2.2 (§ 50-73.79 *et seq.*) of Title 50, a domestic partnership

4610 that has filed either a statement of partnership authority or a statement of registration as a registered limited

4611 liability partnership with the Commission that is not canceled may become a domestic limited liability

4612 company pursuant to a plan of entity conversion that is approved by the domestic partnership in accordance

4613 with the provisions of this article.

4614 F. Unless otherwise provided for in Chapter 2.1 (§ 50-73.1 *et seq.*) of Title 50, a domestic limited

4615 partnership that has filed a certificate of limited partnership with the Commission that is not canceled may

4616 become a domestic limited liability company pursuant to a plan of entity conversion that is approved by the

4617 domestic limited partnership in accordance with the provisions of this article.

4618 2. **That §§ 13.1-898.6 and 13.1-898.7 and Article 17.1 (§§ 13.1-944.1 through 13.1-944.7) of Chapter 10**

4619 **of Title 13.1 of the Code of Virginia are repealed.**

4620 3. **That the provisions of this act shall become effective on July 1, 2027.**