

forthwith notify such surviving or resulting corporation or limited liability company thereof by letter, certified mail, return receipt requested, directed to such surviving or resulting corporation or limited liability company at its address so specified, unless such surviving or resulting corporation or limited liability company shall have designated in writing to the Secretary of State a different address for such purpose, in which case it shall be mailed to the last address so designated. Such letter shall enclose a copy of the process and any other papers served on the Secretary of State pursuant to this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the Secretary of State that service is being effected pursuant to this subsection and to pay the Secretary of State the sum of \$50 for the use of the State, which sum shall be taxed as part of the costs in the proceeding, if the plaintiff shall prevail therein. The Secretary of State shall maintain an alphabetical record of any such service setting forth the name of the plaintiff and the defendant, the title, docket number and nature of the proceeding in which process has been served upon the Secretary of State, the fact that service has been effected pursuant to this subsection, the return date thereof, and the day and hour service was made. The Secretary of State shall not be required to retain such information longer than 5 years from receipt of the service of process.

(e) Sections 251(c) (second sentence) and (d)-(f), 255(c) (second sentence) and (d)-(f), 259-261 and 328 of this title shall, insofar as they are applicable, apply to mergers or consolidations between corporations and limited liability companies.

(f) Nothing in this section shall be deemed to authorize the merger of a charitable nonstock corporation into a limited liability company, if the charitable status of such nonstock corporation would thereby be lost or impaired; but a limited liability company may be merged into a charitable nonstock corporation which shall continue as the surviving corporation.

69 Del. Laws, c. 61, § 11; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 349, §§ 16, 21; 70 Del. Laws, c. 587, § 26; 71 Del. Laws, c. 339, §§ 55, 56; [74 Del. Laws, c. 84, § 19](#); [77 Del. Laws, c. 253, §§ 54-56](#);

§ 265. Conversion of other entities to a domestic corporation [Effective until Aug. 1, 2010]

(a) As used in this section, the term "other entity" means a limited liability company, statutory trust, business trust or association, real estate investment trust, common-law trust or any other unincorporated business including a partnership (whether general (including a limited liability partnership) or limited (including a limited liability limited partnership)), or a foreign corporation.

(b) Any other entity may convert to a corporation of this State by complying with subsection (h) of this section and filing in the office of the Secretary of State:

(1) A certificate of conversion to corporation that has been executed in accordance with subsection (i) of this section and filed in accordance with § 103 of this title; and

(2) A certificate of incorporation that has been executed, acknowledged and filed in accordance with § 103 of this title.

(c) The certificate of conversion to corporation shall state:

(1) The date on which and jurisdiction where the other entity was first created, incorporated, formed or otherwise came into being and, if it has changed, its jurisdiction immediately prior to its conversion to a domestic corporation;

(2) The name of the other entity immediately prior to the filing of the certificate of conversion to corporation; and

(3) The name of the corporation as set forth in its certificate of incorporation filed in accordance with subsection (b) of this section.

(4) [Repealed.]

(d) Upon the effective time of the certificate of conversion to corporation and the certificate of incorporation, the other entity shall be converted to a corporation of this State and the corporation shall thereafter be subject to all of the provisions of this title, except that notwithstanding § 106 of this title, the existence of the corporation shall be deemed to have commenced on the date the other entity commenced its existence in the jurisdiction in which the other entity was first created, formed, incorporated or otherwise came into being.

(e) The conversion of any other entity to a corporation of this State shall not be deemed to affect any obligations or liabilities of the other entity incurred prior to its conversion to a corporation of this State or the personal liability of any person incurred prior to such conversion.

(f) When an other entity has been converted to a corporation of this State pursuant to this section, the corporation of this State shall, for all purposes of the laws of the State of Delaware, be deemed to be the same entity as the converting other entity. When any conversion shall have become effective under this section, for all purposes of the laws of the State of Delaware, all of the rights, privileges and powers of the other entity that has converted, and all property, real, personal and mixed, and all debts due to such other entity, as well as all other things and causes of action belonging to such other entity, shall remain vested in the domestic corporation to which such other entity has converted and shall be the property of such domestic corporation and the title to any real property vested by deed or otherwise in such other entity shall not revert or be in any way impaired by reason of this chapter; but all rights of creditors and all liens upon any property of such other entity shall be preserved unimpaired, and all debts, liabilities and duties of the other entity that has converted shall remain attached to the corporation of this State to which such other entity has converted, and may be enforced against it to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its capacity as a corporation of this State. The rights, privileges, powers and interests in property of the other entity, as well as the debts, liabilities and duties of the other entity, shall not be deemed, as a consequence of the conversion, to have been transferred to the domestic corporation to which such other entity has converted for any purpose of the laws of the State of Delaware.

(g) Unless otherwise agreed for all purposes of the laws of the State of Delaware or as required under applicable non-Delaware law, the converting other entity shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the conversion shall not be deemed to constitute a dissolution of such other entity and shall constitute a continuation of the existence of the converting other entity in the form of a corporation of this State.

(h) Prior to filing a certificate of conversion to corporation with the office of the Secretary of State, the conversion shall be approved in the manner provided for by the document, instrument, agreement or other writing, as the case may be, governing the internal affairs of the other entity and the conduct of its business or by applicable law, as appropriate, and a certificate of incorporation shall be approved by the same authorization required to approve the conversion.

(i) The certificate of conversion to corporation shall be signed by any person who is authorized to sign the certificate of conversion to corporation on behalf of the other entity.

(j) In connection with a conversion hereunder, rights or securities of, or interests in, the other entity which is to be converted to a corporation of this State may be exchanged for or converted into cash, property, or shares of stock, rights or securities of such corporation of this State or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, or shares of stock, rights or securities of or interests in another domestic corporation or other entity or may be cancelled.

[72 Del. Laws, c. 123, § 10](#); [73 Del. Laws, c. 82, §§ 27-29](#); [73 Del. Laws, c. 329, § 45](#); [75 Del. Laws, c. 30, §§ 4-18](#);

§ 266. Conversion of a domestic corporation to other entities [Effective until Aug. 1, 2010]

(a) A corporation of this State may, upon the authorization of such conversion in accordance with this section, convert to a limited liability company, statutory trust, business trust or association, real estate investment trust, common-law trust or any other unincorporated business including a partnership (whether general (including a limited liability partnership) or limited (including a limited liability limited partnership)) or a foreign corporation.

(b) The board of directors of the corporation which desires to convert under this section shall adopt a resolution approving such conversion, specifying the type of entity into which the corporation shall be converted and recommending the approval of such conversion by the stockholders of the corporation. Such resolution shall be submitted to the stockholders of the corporation at an annual or special meeting. Due notice of the time, and purpose of the meeting shall be mailed to each holder of stock, whether voting or nonvoting, of the corporation at the address of the stockholder as it appears on the records of the corporation, at least 20 days prior to the date of the meeting. At the meeting, the resolution shall be considered and a vote taken for its adoption or rejection. If all outstanding shares of stock of the corporation, whether voting or nonvoting, shall be voted for the adoption of the resolution, the conversion shall be authorized.

(1)-(4) [Repealed.]

(c) If a corporation shall convert in accordance with this section to another entity organized, formed or created under the laws of a jurisdiction other than the State of Delaware, the corporation shall file with the Secretary of State a certificate of conversion executed in accordance with § 103 of this title, which certifies:

(1) The name of the corporation, and if it has been changed, the name under which it was originally incorporated;

(2) The date of filing of its original certificate of incorporation with the Secretary of State;

(3) The name and jurisdiction of the entity to which the corporation shall be converted;

(4) That the conversion has been approved in accordance with the provisions of this section;

(5) The agreement of the corporation that it may be served with process in the State of Delaware in any action, suit or proceeding for enforcement of any obligation of the corporation arising while it was a corporation of this State, and that it irrevocably

appoints the Secretary of State as its agent to accept service of process in any such action, suit or proceeding; and

(6) The address to which a copy of the process referred to in subsection (c)(5) of this section shall be mailed to it by the Secretary of State. In the event of such service upon the Secretary of State in accordance with subsection (c)(5) of this section, the Secretary of State shall forthwith notify such corporation that has converted out of the State of Delaware by letter, certified mail, return receipt requested, directed to such corporation that has converted out of the State of Delaware at the address so specified, unless such corporation shall have designated in writing to the Secretary of State a different address for such purpose, in which case it shall be mailed to the last address designated. Such letter shall enclose a copy of the process and any other papers served on the Secretary of State pursuant to this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the Secretary of State that service is being effected pursuant to this subsection and to pay the Secretary of State the sum of \$50 for the use of the State, which sum shall be taxed as part of the costs in the proceeding, if the plaintiff shall prevail therein. The Secretary of State shall maintain an alphabetical record of any such service setting forth the name of the plaintiff and the defendant, the title, docket number and nature of the proceeding in which process has been served, the fact that service has been effected pursuant to this subsection, the return date thereof, and the day and hour service was made. The Secretary of State shall not be required to retain such information longer than 5 years from receipt of the service of process.

(d) Upon the filing in the Office of the Secretary of State of a certificate of conversion to non-Delaware entity in accordance with subsection (c) of this section or upon the future effective date or time of the certificate of conversion to non-Delaware entity and payment to the Secretary of State of all fees prescribed under this title, the Secretary of State shall certify that the corporation has filed all documents and paid all fees required by this title, and thereupon the corporation shall cease to exist as a corporation of this State at the time the certificate of conversion becomes effective in accordance with § 103 of this title. Such certificate of the Secretary of State shall be prima facie evidence of the conversion by such corporation out of the State of Delaware.

(e) The conversion of a corporation out of the State of Delaware in accordance with this section and the resulting cessation of its existence as a corporation of this State pursuant to a certificate of conversion to non-Delaware entity shall not be deemed to affect any obligations or liabilities of the corporation incurred prior to such conversion or the personal liability of any person incurred prior to such conversion, nor shall it be deemed to affect the choice of law applicable to the corporation with respect to matters arising prior to such conversion.

(f) Unless otherwise provided in a resolution of conversion adopted in accordance with this section, the converting corporation shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the conversion shall not constitute a dissolution of such corporation.

(g) In connection with a conversion of a domestic corporation to another entity pursuant to this section, shares of stock, of the corporation of this State which is to be converted may be exchanged for or converted into cash, property, rights or securities of, or interests in, the entity to which the corporation of this State is being converted or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, shares of stock, rights or securities of, or interests in, another domestic corporation or other entity or may be cancelled.

(h) When a corporation has been converted to another entity or business form pursuant to this section, the other entity or business form shall, for all purposes of the

laws of the State of Delaware, be deemed to be the same entity as the corporation. When any conversion shall have become effective under this section, for all purposes of the laws of the State of Delaware, all of the rights, privileges and powers of the corporation that has converted, and all property, real, personal and mixed, and all debts due to such corporation, as well as all other things and causes of action belonging to such corporation, shall remain vested in the other entity or business form to which such corporation has converted and shall be the property of such other entity or business form, and the title to any real property vested by deed or otherwise in such corporation shall not revert or be in any way impaired by reason of this chapter; but all rights of creditors and all liens upon any property of such corporation shall be preserved unimpaired, and all debts, liabilities and duties of the corporation that has converted shall remain attached to the other entity or business form to which such corporation has converted, and may be enforced against it to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its capacity as such other entity or business form. The rights, privileges, powers and interest in property of the corporation that has converted, as well as the debts, liabilities and duties of such corporation, shall not be deemed, as a consequence of the conversion, to have been transferred to the other entity or business form to which such corporation has converted for any purpose of the laws of the State of Delaware.

(i) No vote of stockholders of a corporation shall be necessary to authorize a conversion if no shares of the stock of such corporation shall have been issued prior to the adoption by the board of directors of the resolution approving the conversion.

[72 Del. Laws, c. 123, § 11](#); [73 Del. Laws, c. 82, §§ 30-32](#); [73 Del. Laws, c. 329, § 46](#); [74 Del. Laws, c. 84, § 20](#); [75 Del. Laws, c. 30, §§ 19-27](#);

§ 266. Conversion of a domestic corporation to other entities [Effective Aug. 1, 2010]

(a) A corporation of this State may, upon the authorization of such conversion in accordance with this section, convert to a limited liability company, statutory trust, business trust or association, real estate investment trust, common-law trust or any other unincorporated business including a partnership (whether general (including a limited liability partnership) or limited (including a limited liability limited partnership)) or a foreign corporation.

(b) The board of directors of the corporation which desires to convert under this section shall adopt a resolution approving such conversion, specifying the type of entity into which the corporation shall be converted and recommending the approval of such conversion by the stockholders of the corporation. Such resolution shall be submitted to the stockholders of the corporation at an annual or special meeting. Due notice of the time, and purpose of the meeting shall be mailed to each holder of stock, whether voting or nonvoting, of the corporation at the address of the stockholder as it appears on the records of the corporation, at least 20 days prior to the date of the meeting. At the meeting, the resolution shall be considered and a vote taken for its adoption or rejection. If all outstanding shares of stock of the corporation, whether voting or nonvoting, shall be voted for the adoption of the resolution, the conversion shall be authorized.

(1)-(4) [Repealed.]

(c) If a corporation shall convert in accordance with this section to another entity organized, formed or created under the laws of a jurisdiction other than the State of Delaware, the corporation shall file with the Secretary of State a certificate of conversion executed in accordance with § 103 of this title, which certifies:

(1) The name of the corporation, and if it has been changed, the name under which it was originally incorporated;

(2) The date of filing of its original certificate of incorporation with the Secretary of State;

(3) The name and jurisdiction of the entity to which the corporation shall be converted;

(4) That the conversion has been approved in accordance with the provisions of this section;

(5) The agreement of the corporation that it may be served with process in the State of Delaware in any action, suit or proceeding for enforcement of any obligation of the corporation arising while it was a corporation of this State, and that it irrevocably appoints the Secretary of State as its agent to accept service of process in any such action, suit or proceeding; and

(6) The address to which a copy of the process referred to in subsection (c)(5) of this section shall be mailed to it by the Secretary of State. In the event of such service upon the Secretary of State in accordance with subsection (c)(5) of this section, the Secretary of State shall forthwith notify such corporation that has converted out of the State of Delaware by letter, certified mail, return receipt requested, directed to such corporation that has converted out of the State of Delaware at the address so specified, unless such corporation shall have designated in writing to the Secretary of State a different address for such purpose, in which case it shall be mailed to the last address designated. Such letter shall enclose a copy of the process and any other papers served on the Secretary of State pursuant to this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the Secretary of State that service is being effected pursuant to this subsection and to pay the Secretary of State the sum of \$50 for the use of the State, which sum shall be taxed as part of the costs in the proceeding, if the plaintiff shall prevail therein. The Secretary of State shall maintain an alphabetical record of any such service setting forth the name of the plaintiff and the defendant, the title, docket number and nature of the proceeding in which process has been served, the fact that service has been effected pursuant to this subsection, the return date thereof, and the day and hour service was made. The Secretary of State shall not be required to retain such information longer than 5 years from receipt of the service of process.

(d) Upon the filing in the Office of the Secretary of State of a certificate of conversion to non-Delaware entity in accordance with subsection (c) of this section or upon the future effective date or time of the certificate of conversion to non-Delaware entity and payment to the Secretary of State of all fees prescribed under this title, the Secretary of State shall certify that the corporation has filed all documents and paid all fees required by this title, and thereupon the corporation shall cease to exist as a corporation of this State at the time the certificate of conversion becomes effective in accordance with § 103 of this title. Such certificate of the Secretary of State shall be prima facie evidence of the conversion by such corporation out of the State of Delaware.

(e) The conversion of a corporation out of the State of Delaware in accordance with this section and the resulting cessation of its existence as a corporation of this State pursuant to a certificate of conversion to non-Delaware entity shall not be deemed to affect any obligations or liabilities of the corporation incurred prior to such conversion or the personal liability of any person incurred prior to such conversion, nor shall it be deemed to affect the choice of law applicable to the corporation with respect to matters arising prior to such conversion.

(f) Unless otherwise provided in a resolution of conversion adopted in accordance with this section, the converting corporation shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the conversion shall not constitute a dissolution of such corporation.

(g) In connection with a conversion of a domestic corporation to another entity pursuant to this section, shares of stock, of the corporation of this State which is to be converted may be exchanged for or converted into cash, property, rights or securities of, or interests in, the entity to which the corporation of this State is being converted or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, shares of stock, rights or securities of, or interests in, another domestic corporation or other entity or may be cancelled.

(h) When a corporation has been converted to another entity or business form pursuant to this section, the other entity or business form shall, for all purposes of the laws of the State of Delaware, be deemed to be the same entity as the corporation. When any conversion shall have become effective under this section, for all purposes of the laws of the State of Delaware, all of the rights, privileges and powers of the corporation that has converted, and all property, real, personal and mixed, and all debts due to such corporation, as well as all other things and causes of action belonging to such corporation, shall remain vested in the other entity or business form to which such corporation has converted and shall be the property of such other entity or business form, and the title to any real property vested by deed or otherwise in such corporation shall not revert or be in any way impaired by reason of this chapter; but all rights of creditors and all liens upon any property of such corporation shall be preserved unimpaired, and all debts, liabilities and duties of the corporation that has converted shall remain attached to the other entity or business form to which such corporation has converted, and may be enforced against it to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its capacity as such other entity or business form. The rights, privileges, powers and interest in property of the corporation that has converted, as well as the debts, liabilities and duties of such corporation, shall not be deemed, as a consequence of the conversion, to have been transferred to the other entity or business form to which such corporation has converted for any purpose of the laws of the State of Delaware.

(i) No vote of stockholders of a corporation shall be necessary to authorize a conversion if no shares of the stock of such corporation shall have been issued prior to the adoption by the board of directors of the resolution approving the conversion.

(j) Nothing in this section shall be deemed to authorize the conversion of a charitable nonstock corporation into another entity, if the charitable status of such charitable nonstock corporation would thereby be lost or impaired.

[72 Del. Laws, c. 123, § 11](#); [73 Del. Laws, c. 82, §§ 30-32](#); [73 Del. Laws, c. 329, § 46](#); [74 Del. Laws, c. 84, § 20](#); [75 Del. Laws, c. 30, §§ 19-27](#); [77 Del. Laws, c. 253, § 57](#);

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