

CHAPTER 96  
FORMERLY  
SENATE BILL NO. 77

AN ACT TO AMEND TITLE 8 OF THE DELAWARE CODE RELATING TO THE GENERAL CORPORATION LAW.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend § 102(a)(1), Title 8, Delaware Code, by adding the words “or, in the sole discretion of the Division of Corporations in the Department of State, if the corporation is both a nonprofit nonstock corporation and an association of professionals,” after “\$10,000,000,”.

Section 2. Amend § 102(a)(1), Title 8, Delaware Code, by striking “and (iii)” and substituting in lieu thereof “, (iii) except as permitted by § 395 of this title, shall not contain the word “trust,” and (iv)”.

Section 3. Amend § 102(a)(2), Title 8, Delaware Code, by deleting the words “include the street, number, city and county” and inserting in lieu thereof the words “be stated in accordance with § 131(c) of this chapter”.

Section 4. Amend § 103, Title 8, Delaware Code, by adding the following new subsection (j) to the end thereof:

“(j) Notwithstanding any other provision of this chapter, it shall not be necessary for any corporation to amend its certificate of incorporation, or any other document, that has been filed prior to August 1, 2011, to comply with § 131(c) of this chapter, provided that any certificate or other document filed under this chapter on or after August 1, 2011 and changing the address of a registered office shall comply with § 131(c) of this chapter.”

Section 5. Amend § 131, Title 8, Delaware Code, by adding the following new subsection (c) to the end thereof:

“(c) As contained in any certificate of incorporation or other document filed with the Secretary of State under this chapter, the address of a registered office shall include the street, number, city, county and postal code.”

Section 6. Amend § 145, Title 8, Delaware Code, by replacing the words “such provision” in second sentence of subsection (f) thereof with the phrase “the certificate of incorporation or the bylaws”.

Section 7. Amend § 265(b), Title 8, Delaware Code, by adding the following sentence to the end thereof:

“Each of the certificates required by this subsection (b) shall be filed simultaneously in the office of the Secretary of State and, if such certificates are not to become effective upon their filing as permitted by § 103(d) of this title, then each such certificate shall provide for the same effective date or time in accordance with § 103(d) of this title.”

Section 8. Amend the title of § 277, Title 8, Delaware Code, by striking the words “dissolution or merger” and substituting the words “dissolution, merger, transfer or conversion” in lieu thereof.

Section 9. Amend § 277, Title 8, Delaware Code, by replacing the entire text thereof with the following:

“No corporation shall be dissolved, merged, transferred (without continuing its existence as a corporation of this State) or converted under this chapter until (a) all franchise taxes due to or assessable by the State including all franchise taxes due or which would be due or assessable for the entire calendar month during which such dissolution, merger, transfer or conversion becomes effective have been paid by the corporation and (b) all annual franchise tax reports including a final annual franchise tax report for the year in which such dissolution, merger, transfer or conversion becomes effective have been filed by the corporation; notwithstanding the foregoing, if the Secretary of State certifies that an instrument to effect a dissolution, merger, transfer or conversion has been filed in the Secretary of State’s office, such corporation shall be dissolved, merged, transferred or converted at the effective time of such instrument.”

Section 10. Amend the title of § 313, Title 8, Delaware Code, by striking “religious, charitable, educational, etc.,” and substituting the word “exempt” in lieu thereof.

Section 11. Amend § 313(a), Title 8, Delaware Code, by (i) striking “Every religious corporation, and every purely charitable or educational association, and every company, association or society, which by its

certificate of incorporation, had, at the time its certificate of incorporation or charter became void by operation of law, for its object the assistance of sick, needy or disabled members, or the defraying of funeral expenses of deceased members, or to provide for the wants of the widows and families after death of its members, and any other exempt corporation as defined in § 501(b) of this title,” and substituting the words “Every exempt corporation” in lieu thereof and (ii) striking the phrase “under any of the classifications set out in this subsection” and substituting the phrase “as an exempt corporation pursuant to § 501(b) of this title” in lieu thereof.

Section 12. Amend § 313(c), Title 8, Delaware Code, by (i) inserting the sentence “As used in this section, the term “exempt corporation” shall have the meaning given to it in § 501(b) of this title.” at the beginning thereof, (ii) inserting the word “exempt” between the word “any” and the word “corporation” and (iii) striking the phrase “of any of the classifications set out in subsection (a) of this section”.

Section 13. Amend § 374, Title 8, Delaware Code, by deleting the words “which shall include the street, number, city and county” and inserting in lieu thereof the words “in accordance with § 131(c) of this chapter”.

Section 14. Amend § 388(b), Title 8, Delaware Code, by adding the following sentence to the end thereof:

“Each of the certificates required by this subsection (b) shall be filed simultaneously with the Secretary of State and, if such certificates are not to become effective upon their filing as permitted by § 103(d) of this title, then each such certificate shall provide for the same effective date or time in accordance with § 103(d) of this title.”

Section 15. Amend § 391(a)(3), Title 8, Delaware Code, by (i) inserting the word “the” after the word “In” in the last sentence thereof, (ii) inserting the word “exempt” between the word “of” and the word “corporations” in the last sentence thereof and (iii) striking the words “created solely for religious or charitable purposes” from the last sentence thereof.

Section 16. Amend § 395(a), Title 8, Delaware Code, by (i) striking the word “Every” at the beginning of the first sentence and substituting in lieu thereof “Except as provided below in subsection (d), every”, and (ii) striking “the Savings and Loan Holding Company Act, 12 U.S.C. § 1730a et seq.” and substituting in lieu thereof “section 10 of the Home Owners’ Loan Act, 12 U.S.C. § 1467a et seq.”.

Section 17. Amend § 395(b), Title 8, Delaware Code, by (i) striking the word “No” at the beginning of the first sentence and substituting in lieu thereof “Except as provided below in subsection (d), no”, (ii) striking “the Savings and Loan Holding Company Act, 12 U.S.C. § 1730a et seq.” and substituting in lieu thereof “section 10 of the Home Owners’ Loan Act, 12 U.S.C. § 1467a et seq.”, and (iii) striking the word “The” at the beginning of the second sentence and substituting in lieu thereof “Except as provided below in subsection (d), the”.

Section 18. Amend § 395(c), Title 8, Delaware Code, by (i) striking “the Savings and Loan Holding Company Act, 12 U.S.C. § 1730a et seq.” and substituting in lieu thereof “section 10 of the Home Owners’ Loan Act, 12 U.S.C. § 1467a et seq.”, and (ii) striking “, or use the word “trust” as a part of such corporation’s name”.

Section 19. Amend § 395, Title 8, Delaware Code, by adding a new subsection (d) to read as follows:

“(d) The requirements and restrictions set forth above in subsections (a) and (b) shall not apply to, and shall not be construed to prevent the use of the word “trust” as part of the name of, a corporation that is not subject to the supervision of the State Bank Commissioner of this State and that is not regulated under the Bank Holding Company Act of 1956, 12 U.S.C. § 1841 et seq., or section 10 of the Home Owners’ Loan Act, 12 U.S.C. § 1467a et seq., where use of the word “trust” as part of such corporation’s name clearly (i) does not refer to a trust business, (ii) is not likely to mislead the public into believing that the nature of the business of the corporation includes activities that fall under the supervision of the State Bank Commissioner of this State or that are regulated under the Bank Holding Company Act of 1956, 12 U.S.C. § 1841 et seq., or section 10 of the Home Owners’ Loan Act, 12 U.S.C. § 1467a et seq., and (iii) will not otherwise lead to a pattern and practice of abuse that might cause harm to the interests of the public or the State, as determined by the Director of the Division of Corporations and the State Bank Commissioner.”

Section 20. Amend § 501(a), Title 8, Delaware Code, by (i) inserting the words “(other than a captive insurance company licensed under chapter 69 of Title 18)” after the word “kind” in the first sentence thereof, (ii) striking the words “or building and loan association,” in the second sentence thereof and substituting in lieu thereof the words “, building and loan association or any captive insurance company licensed under chapter 69 of Title 18,”

and (iii) deleting “, or religious corporation, or purely charitable or educational association, or any company, association or society, which, by its certificate of incorporation, shall have for its object the assistance of sick, needy or disabled members, or the defraying of funeral expenses of deceased members, or to provide for the wants of the widows and families after death of its members” in the second sentence thereof.

Section 21. Amend § 501(b)(5), Title 8, Delaware Code, by adding the following phrase between the word “purposes” and the “;”:

“, or is a religious corporation or purely charitable or educational association, or is a company, association or society, which, by its certificate of incorporation, has for its object the assistance of sick, needy or disabled members, or the defraying of funeral expenses of deceased members, or to provide for the wants of the widows and families after death of its members”.

Section 22. Sections 1 through 21 shall be effective on August 1, 2011.

Approved July 07, 2011