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DELAWARE STATE SENATE
150th GENERAL ASSEMBLY

SENATE BILL NO. 244

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO THE CREATION, REGULATION, OPERATION, AND DISSOLUTION OF STATUTORY TRUSTS.

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

1 Section 1. Amend § 3801, Title 12 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows and by redesignating accordingly:

3 § 3801. Definitions.

4 (b) “Document” means (i) any tangible medium on which information is inscribed, and includes handwritten,
5 typed, printed or similar instruments, and copies of such instruments and (ii) an electronic transmission.

6 (c) “Electronic transmission” means any form of communication not directly involving the physical transmission
7 of paper, including the use of, or participation in, 1 or more electronic networks or databases (including 1 or more
8 distributed electronic networks or databases), that creates a record that may be retained, retrieved and reviewed by a
9 recipient thereof and that may be directly reproduced in paper form by such a recipient through an automated process.

10 Section 2. Amend § 3804, Title 12 of the Delaware Code by making deletions as shown by strike through and
11 insertions as shown by underline as follows:

12 § 3804. Legal proceedings.

13 (a) A statutory trust may sue and be sued, and service of process upon 1 of the trustees shall be sufficient. In
14 furtherance of the foregoing, a statutory trust may be sued for debts and other obligations or liabilities contracted or
15 incurred by the trustees or other authorized persons, or by the duly authorized agents of such trustees or other authorized
16 persons, in the performance of their respective duties under the governing instrument of the statutory trust. The property of
17 a statutory trust shall be subject to attachment and execution as if it were a corporation, subject to § 3502 of Title 10.
18 Notwithstanding the foregoing provisions of this section, in the event that the governing instrument of a statutory trust,
19 including a statutory trust which is a registered investment company under the Investment Company Act of 1940, as
20 amended (15 U.S.C. § 80a-1 et seq.), creates 1 or more series as provided in § 3806(b)(2) of this title, and to the extent

21 separate and distinct records are maintained for any such series and the assets associated with any such series are held in
22 such separate and distinct records (directly or indirectly, including through a nominee or otherwise) and accounted for in
23 such separate and distinct records separately from the other assets of the statutory trust, or any other series thereof, and if
24 the governing instrument so provides, and notice of the limitation on liabilities of a series as referenced in this sentence is
25 set forth in the certificate of trust of the statutory trust, then the debts, liabilities, obligations and expenses incurred,
26 contracted for or otherwise existing with respect to a particular series shall be enforceable against the assets of such series
27 only, and not against the assets of the statutory trust generally or any other series thereof, and, unless otherwise provided in
28 the governing instrument, none of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise
29 existing with respect to the statutory trust generally or any other series thereof shall be enforceable against the assets of
30 such series. Neither the preceding sentence nor any provision pursuant thereto in a governing instrument or certificate of
31 trust shall:

32 (1) Restrict a statutory trust on behalf of a series from agreeing in the governing instrument or otherwise that
33 any or all of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to
34 the statutory trust generally or any other series thereof shall be enforceable against the assets of such series; or

35 (2) Restrict a statutory trust from agreeing in the governing instrument or otherwise that any or all of the
36 debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to a series shall be
37 enforceable against the assets of the statutory trust generally.

38 As used in this chapter, a reference to assets of a series includes assets associated with a series and a reference to assets
39 associated with a series includes assets of a series. Except to the extent otherwise provided in the governing instrument of a
40 statutory trust, a statutory trust that has established series in accordance with this ~~subsection (a)~~ may subsection may: (i)
41 contract, hold title to assets (including real, personal and intangible property), grant liens and security interests, and sue and
42 be sued, in each case, in the name of a ~~series~~ series, and (ii) enter into an enforceable contract on behalf of 1 series of the
43 statutory trust with and on behalf of another series of the statutory trust or with the statutory trust generally. Solely with
44 respect to any liens or security interests granted in any assets of a series or any assets associated with a series of a statutory
45 trust, only the statutory trust shall be the “debtor” within the meaning of Article 9 of the Uniform Commercial Code as the
46 person having the power to transfer rights in such assets.

47 Section 3. Amend § 3805, Title 12 of the Delaware Code by making deletions as shown by strike through and
48 insertions as shown by underline as follows:

49 § 3805. Rights of beneficial owners and trustees in trust property.

(f) Except to the extent otherwise provided in the governing instrument of the statutory trust, legal title to the property of the statutory trust or any part thereof may be held in the name of any trustee of the statutory trust, in its capacity as such, with the same effect as if such property were held in the name of the statutory trust. The holding of legal title to any statutory trust property by a trustee shall not require such trustee to be a party to any contract or other instrument (including a security agreement) to which the statutory trust is a party.

Section 4. Amend § 3806 Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3806. Management of statutory trust.

(f) Unless otherwise provided in the governing instrument of a statutory trust, meetings of beneficial owners may be held by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this subsection shall constitute presence in person at the meeting. Unless otherwise provided in the governing instrument of a statutory trust, on any matter that is to be voted on by the beneficial owners:

(1) The beneficial owners may take such action without a meeting, without a prior notice and without a vote if consented to, in writing, or by electronic transmission by beneficial owners having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all interests in the statutory trust entitled to vote thereon were present and voted; and

(2) The beneficial owners may vote in person or by proxy, and such proxy may be granted in writing, by means of electronic transmission; or as otherwise permitted by applicable law.

Unless otherwise provided in a governing instrument, a consent transmitted by electronic transmission by a beneficial owner or by a person or persons authorized to act for a beneficial owner shall be deemed to be written and signed for purposes of this subsection. ~~For purposes of this subsection, the term "electronic transmission" means any form of communication, not directly involving the physical transmission of paper, including the use of or participation in 1 or more electronic networks or databases (including 1 or more distributed electronic networks or databases), that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.~~ Unless otherwise provided in a governing instrument, if a person (whether or not then a beneficial owner) consenting as a beneficial owner to any matter provides that such consent will be effective at a future time (including a time determined upon the happening of an event), then such person shall be deemed to have consented as a beneficial owner at such future time so long as such person is then a beneficial owner.

79 (g) Unless otherwise provided in the governing instrument of a statutory trust, meetings of trustees may be held by
80 means of conference telephone or other communications equipment by means of which all persons participating in the
81 meeting can hear each other, and participation in a meeting pursuant to this subsection shall constitute presence in person at
82 the meeting. Unless otherwise provided in the governing instrument of a statutory trust, on any matter that is to be voted on
83 by the trustees:

84 (1) The trustees may take such action without a meeting, without a prior notice and without a vote if
85 consented to, in writing, or by electronic transmission, by trustees having not less than the minimum number of votes
86 that would be necessary to authorize or take such action at a meeting at which all trustees entitled to vote thereon were
87 present and voted; and

88 (2) The trustee may vote in person or by proxy, and such proxy may be granted in writing, by means of
89 electronic transmission, or as otherwise permitted by applicable law.

90 Unless otherwise provided in a governing instrument, a consent transmitted by electronic transmission by a trustee
91 or by a person or persons authorized to act for a trustee shall be deemed to be written and signed for purposes of this
92 subsection. ~~For purposes of this subsection, the term "electronic transmission" means any form of communication, not~~
93 ~~directly involving the physical transmission of paper, including the use of or participation in 1 or more electronic networks~~
94 ~~or databases (including 1 or more distributed electronic networks or databases), that creates a record that may be retained,~~
95 ~~retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient~~
96 ~~through an automated process.~~ Unless otherwise provided in a governing instrument, if a person (whether or not then a
97 trustee) consenting as a trustee to any matter provides that such consent will be effective at a future time (including a time
98 determined upon the happening of an event), then such person shall be deemed to have consented as a trustee at such future
99 time so long as such person is then a trustee.

100 Section 5. Amend § 3807, Title 12 of the Delaware Code by making deletions as shown by strike through and
101 insertions as shown by underline as follows:

102 § 3807. Trustee in state; registered agent.

103 (e) A trustee or registered agent of a statutory trust whose address, as set forth in a certificate of trust pursuant to §
104 3810(a)(1)b. of this title, has changed may change such address in the certificates of trust of all statutory trusts for which
105 such trustee or registered agent is appointed to another address in the State by paying a fee as set forth in § 3813(a)(5) of
106 this title and filing with the Secretary of State a certificate, executed by such trustee or registered agent, setting forth the
107 address of such trustee or registered agent before it was changed, and further certifying as to the new address of such trustee
108 or registered agent for each of the statutory trusts for which it is trustee or registered agent. Upon the filing of such

109 certificate, ~~the Secretary of State shall furnish to the trustee or registered agent a certified copy of the same under the~~
110 ~~Secretary's hand and seal of office, and thereafter,~~ or until further change of address, as authorized by law, the address of
111 such trustee or registered agent in the State for each of the statutory trusts for which it is trustee or registered agent shall be
112 located at the new address of the trustee or registered agent thereof as given in the certificate. A trustee or registered agent
113 of a statutory trust whose name, as set forth in a certificate of trust pursuant to § 3810(a)(1)b. of this title, has changed may
114 change such name in the certificates of trust of all statutory trusts for which such trustee or registered agent is appointed to
115 its new name by paying a fee as set forth in § 3813(a)(5) of this title and filing with the Secretary of State a certificate,
116 executed by such trustee or registered agent, setting forth the name of such trustee or registered agent before it was changed
117 and further certifying as to the new name of such trustee or registered agent for each of the statutory trusts for which it is a
118 trustee or registered agent. ~~Upon the filing of such certificate and payment of such fee, the Secretary of State shall furnish~~
119 ~~to the trustee or registered agent a certified copy of the certificate under the Secretary's hand and seal of office.~~ A change of
120 name of any person acting as a trustee or registered agent of a statutory trust as a result of (i) a merger or consolidation of
121 the trustee or registered agent with another person who succeeds to its assets and liabilities by operation of law (ii) the
122 conversion of the registered agent into another person, or (iii) a division of the registered agent in which an identified
123 resulting person succeeds to all of the assets and liabilities of the registered agent related to its registered agent business
124 pursuant to the plan of division, as set forth in the certificate of division, shall each be deemed a change of name for
125 purposes of this section. Filing a certificate under this section shall be deemed to be an amendment of the certificate of trust
126 of each statutory trust affected thereby, and no further action with respect thereto to amend its certificate of trust under §
127 3810 of this title shall be required. Any trustee or registered agent filing a certificate under this section shall promptly, upon
128 such filing, deliver a copy of any such certificate to each statutory trust affected thereby.

129 (f) The registered agent of 1 or more statutory trusts may resign and appoint a successor registered agent by paying
130 a fee as set forth in § 3813(a)(5) of this title and filing a certificate with the Secretary of State stating that it resigns and
131 providing the name and address of the successor registered agent. There shall be attached to such certificate a statement of
132 each affected statutory trust ratifying and approving such change of registered agent. Upon such filing, or upon the future
133 effective date or time of such certificate if it is not to be effective upon filing, the successor registered agent shall become
134 the registered agent of such statutory trusts as have ratified and approved such succession, and the successor registered
135 agent's address, as stated in such certificate, shall become the address of each such statutory trust's registered office in the
136 State of Delaware. ~~The Secretary of State shall then issue a certificate that the successor registered agent has become the~~
137 ~~registered agent of the statutory trusts so ratifying and approving such change and setting out the names of such statutory~~
138 ~~trusts.~~ Filing of such certificate of resignation shall be deemed to be an amendment to the certificate of trust of each

139 statutory trust affected thereby, and no further action with respect thereto to amend its certificate of trust under § 3810 of
140 this title shall be required.

141 (g) The registered agent of ~~1 or more statutory trusts~~ a statutory trust may resign without appointing a successor
142 registered agent by paying a fee as set forth in § 3813(a)(5) of this title and filing a certificate of resignation with the
143 Secretary of State, but such resignation shall not become effective until 30 days after the certificate is filed. The certificate
144 shall contain a statement that written notice of resignation was given to ~~each affected~~ the statutory trust at least 30 days
145 prior to the filing of the certificate by mailing or delivering such notice to each statutory trust at its address last known to
146 the registered agent and shall set forth the date of such notice. The certificate shall include such information last provided to
147 the registered agent pursuant to § 3807(k) of this chapter for a communications contact for the statutory trust. Such
148 information regarding the communications contact shall not be deemed public. A certificate filed pursuant to this subsection
149 must be on the form prescribed by the Secretary of State. After receipt of the notice of the resignation of its registered
150 agent, each statutory trust for which such registered agent was maintaining a registered office and registered agent in this
151 State under subsection (b) of this section shall obtain and designate a new registered agent, to take the place of the
152 registered agent so resigning, or shall appoint a trustee meeting the requirements of subsection (a) of this section. After the
153 resignation of the registered agent shall have become effective as provided in this section and if no new registered agent
154 shall have been obtained and designated in the time and manner aforesaid, service of legal process against each statutory
155 trust for which the resigned registered agent had been acting shall thereafter be upon the Secretary of State in accordance
156 with § 3804 of this title.

157 (i) Every registered agent shall:

158 (1) If an entity, maintain a business office in the State of Delaware which is generally open, or if an
159 individual, be generally present at a designated location in the State of Delaware, at sufficiently frequent times to
160 accept service of process and otherwise perform the functions of a registered agent;

161 (2) If a foreign entity, be authorized to transact business in the State of Delaware;

162 (3) Accept service of process and other communications directed to the statutory trusts and foreign statutory
163 trusts for which it serves as registered agent and forward same to the statutory trust or foreign statutory trust to which
164 the service or communication is directed; and

165 (4) Satisfy and adhere to regulations established by the Secretary regarding the verification of both the identity
166 of the entity's contacts and individuals for which the registered agent maintains a record for the reduction of risk of
167 unlawful business purposes.

(j) Any registered agent, who at any time serves as registered agent for more than 50 entities (a “commercial registered agent”), whether domestic or foreign, shall satisfy and comply with the following qualifications.

(1) A natural person serving as a commercial registered agent shall:

a. Maintain a principal residence or a principal place of business in the State of Delaware;

b. Maintain a Delaware business license;

c. Be generally present at a designated location within the State of Delaware during normal business hours to accept service of process and otherwise perform the functions of a registered agent as specified in subsection (i) of this section;

d. Provide the Secretary of State upon request with such information identifying and enabling communication with such commercial registered agent as the Secretary of State shall require; and

e. Satisfy and adhere to regulations established by the Secretary regarding the verification of both the identity of the entity's contacts and individuals for which the natural person maintains a record for the reduction of risk of unlawful business purposes.

(2) A domestic or foreign corporation, a domestic partnership (whether general (including a limited liability partnership) or limited (including a limited liability limited partnership)), a foreign limited liability partnership, a domestic or foreign limited liability company, or a statutory trust or foreign statutory trust serving as a commercial registered agent shall:

a. Have a business office within the State of Delaware which is generally open during normal business hours to accept service of process and otherwise perform the functions of a registered agent as specified in subsection (i) of this section;

b. Maintain a Delaware business license;

c. Have generally present at such office during normal business hours an officer, director or managing agent who is a natural person;

d. Provide the Secretary of State upon request with such information identifying and enabling communication with such commercial registered agent as the Secretary of State shall require; and

e. Satisfy and adhere to regulations established by the Secretary regarding the verification of both the identity of the entity's contacts and individuals for which it maintains a record for the reduction of risk of unlawful business purposes.

(3) For purposes of this subsection and paragraph (m)(2)a. of this section, a “commercial registered agent” shall also include any registered agent which has an officer, director or managing agent in common with any other

198 registered agent or agents if such registered agents at any time during such common service as officer, director or
199 managing agent collectively served as registered agents for more than 50 entities, whether domestic or foreign.

200 (k) Every statutory trust that has a registered agent pursuant to § 3807(b) of this chapter and every foreign
201 statutory trust qualified to do business in the State of Delaware shall provide to its registered agent and update from time to
202 time as necessary the name, business address and business telephone number of a natural person who is a trustee, beneficial
203 owner, officer, employee or designated agent of the statutory trust or foreign statutory trust who is then authorized to
204 receive communications from the registered agent. Such person shall be deemed the communications contact for the
205 statutory trust or foreign statutory trust. A statutory trust, upon receipt of a request by the communications contact delivered
206 in writing or by electronic transmission, shall provide the communications contact with the name, business address, and
207 business telephone number of a natural person who has access to the record required to be maintained pursuant to §
208 3819(a)(2) of this title. Every registered agent shall retain (in paper or electronic form) the above information concerning
209 the current communications contact for each statutory trust and each foreign statutory trust for which that registered agent
210 serves as registered agent. If the statutory trust or foreign statutory trust fails to provide the registered agent with a current
211 communications contact, the registered agent may resign as the registered agent for such statutory trust or foreign statutory
212 trust pursuant to this section.

213 (l) The Secretary of State is fully authorized to issue such regulations as may be necessary or appropriate to carry
214 out the enforcement of subsections (i), (j) and (k) of this section, and to take actions reasonable and necessary to assure
215 registered agents' compliance with subsections (i), (j) and (k) of this section. Such actions may include refusal to file
216 documents submitted by a registered agent, including the refusal to file any documents regarding an entity's formation.

217 (m) Upon application of the Secretary of State, the Court of Chancery may enjoin any person or entity from
218 serving as a registered agent or as an officer, director or managing agent of a registered agent.

219 (1) Upon the filing of a complaint by the Secretary of State pursuant to this section, the court may make such
220 orders respecting such proceeding as it deems appropriate, and may enter such orders granting interim or final relief as
221 it deems proper under the circumstances.

222 (2) Any 1 or more of the following grounds shall be a sufficient basis to grant an injunction pursuant to this
223 section:

224 a. With respect to any registered agent who at any time within 1 year immediately prior to the filing of the
225 Secretary of State's complaint is a commercial registered agent, failure after notice and warning to comply with the
226 qualifications set forth in subsection (i) of this section and/or the requirements of subsection (j) or (k) of this
227 section above;

228 b. The person serving as a registered agent, or any person who is an officer, director or managing agent of
229 an entity registered agent, has been convicted of a felony or any crime which includes an element of dishonesty or
230 fraud or involves moral turpitude; or

231 c. The registered agent has engaged in conduct in connection with acting as a registered agent that is
232 intended to or likely to deceive or defraud the public.

233 (3) With respect to any order the court enters pursuant to this section with respect to an entity that has acted as
234 a registered agent, the court may also direct such order to any person who has served as an officer, director or
235 managing agent of such registered agent. Any person who, on or after January 1, 2021, serves as an officer, director or
236 managing agent of an entity acting as a registered agent in the State of Delaware shall be deemed thereby to have
237 consented to the appointment of such registered agent as agent upon whom service of process may be made in any
238 action brought pursuant to this section, and service as an officer, director or managing agent of an entity acting as a
239 registered agent in the State of Delaware shall be a signification of the consent of such person that any process when so
240 served shall be of the same legal force and validity as if served upon such person within the State of Delaware, and
241 such appointment of the registered agent shall be irrevocable.

242 (4) Upon the entry of an order by the court enjoining any person or entity from acting as a registered agent,
243 the Secretary of State shall mail or deliver notice of such order to each affected statutory trust that has a registered
244 agent pursuant to § 3807(b) of this chapter or foreign statutory trust:

245 a. That has specified the address of a place of business in a record of the Secretary of State, to the address
246 specified, or

247 b. An address of which the Secretary of State has obtained from the statutory trust or foreign statutory
248 trust 's former registered agent, to the address obtained.

249 If such a statutory trust fails to obtain and designate a new registered agent within 30 days after such notice is
250 given, the certificate of trust of such statutory trust shall be canceled. If such a foreign statutory trust fails to obtain and
251 designate a new registered agent within 30 days after such notice is given, such foreign statutory trust shall not be permitted
252 to do business in the State of Delaware and its registration shall be canceled. If any other affected statutory trust fails to
253 obtain and designate a new registered agent within 60 days after entry of an order by the court enjoining such statutory
254 trust's registered agent from acting as a registered agent, the certificate of trust of such statutory trust shall be canceled. If
255 any other affected foreign statutory trust fails to obtain and designate a new registered agent within 60 days after entry of an
256 order by the court enjoining such foreign statutory trust's registered agent from acting as a registered agent, such foreign
257 statutory trust shall not be permitted to do business in the State of Delaware and its registration shall be canceled. If the

258 court enjoins a person or entity from acting as a registered agent as provided in this section and no new registered agent
259 shall have been obtained and designated in the time and manner aforesaid, service of legal process against the statutory trust
260 or foreign statutory trust for which the registered agent had been acting shall thereafter be upon the Secretary of State in
261 accordance with § 3804 or § 3861 of this title. The Court of Chancery may, upon application of the Secretary of State on
262 notice to the former registered agent, enter such orders as it deems appropriate to give the Secretary of State access to
263 information in the former registered agent's possession in order to facilitate communication with the statutory trusts and
264 foreign statutory trusts the former registered agent served.

265 Section 6. Amend § 3810, Title 12 of the Delaware Code by making deletions as shown by strike through and
266 insertions as shown by underline as follows:

267 § 3810. Certificate of trust; amendment; restatement; cancellation.

268 (d) A certificate of trust shall be cancelled upon the dissolution and the completion of winding up of a statutory
269 trust, or upon the filing of a certificate of merger or consolidation if the statutory trust is not the surviving or resulting
270 person in a merger or consolidation, or upon the future effective date or time of a certificate of merger or consolidation if
271 the trust is not the surviving or resulting person in a merger or consolidation, or upon the filing of a certificate of transfer,
272 or upon the future effective date or time of a certificate of transfer, or upon the filing of a certificate of conversion to non-
273 Delaware other business entity or upon the future effective date or time of a certificate of conversion to non-Delaware
274 ~~entity.~~ entity or upon the filing of a certificate of division if the statutory trust is a dividing statutory trust that is not a
275 surviving statutory trust or upon the future effective date or time of a certificate of division if the statutory trust is a dividing
276 statutory trust that is not a surviving statutory trust. A certificate of cancellation shall be filed in the office of the Secretary
277 of State and set forth:

278 (1) The name of the statutory trust;

279 (2) The date of filing of its certificate of trust;

280 (3) The future effective date or time (which shall be a date or time certain) of cancellation if it is not to be
281 effective upon the filing of the certificate; and

282 (4) Any other information the trustee determines to include therein.

283 A certificate of cancellation that is filed in the office of the Secretary of State prior to the dissolution or the
284 completion of winding up of a statutory trust may be corrected as an erroneously executed certificate of cancellation by
285 filing with the office of the Secretary of State a certificate of correction of such certificate of cancellation in accordance
286 with subsection (e) of this section. The Secretary of State shall not issue a certificate of good standing with respect to a
287 statutory trust if its certificate of trust is cancelled.

Section 7. Amend § 3811, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3811. Execution.

(a) Each certificate required by this subchapter to be filed in the office of the Secretary of State shall be executed in the following manner:

(4) If a statutory trust is filing a certificate of merger or consolidation, certificate of conversion, certificate of transfer, certificate of transfer and continuance, certificate of statutory trust ~~domestication~~ domestication, certificate of division or certificate of termination or amendment to any such certificate, the certificate of merger or consolidation, certificate of conversion, certificate of transfer, certificate of transfer and continuance, certificate of statutory trust ~~domestication~~ domestication, certificate of division or certificate of termination or amendment to any such certificate must be signed by all of the trustees or as otherwise provided in the governing instrument of the statutory trust, or if the certificate of merger or consolidation, certificate of conversion, certificate of statutory trust domestication or certificate of termination or amendment to any such certificate is being filed by an other business entity or non-United States entity (as such term is defined in § 3822 of this title thereof), the certificate of merger or consolidation, certificate of conversion, certificate of statutory trust domestication or certificate of termination or amendment to any such certificate must be signed by a person authorized to execute the certificate on behalf of the other business entity or non-United States entity (as such term is defined in § 3822 of this title hereof).

Section 8. Amend § 3812, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3812. Filing of certificate.

(b) Notwithstanding any other provision of this chapter, any certificate filed in the office of the Secretary of State under this chapter shall be effective at the time of its filing with the Secretary of State or at any later date or time (not later than a time on the one hundred and eightieth day after the date of its filing if such date of filing is on or after January 1, 2012) specified in the certificate. Upon the effective time of a certificate of amendment (or judicial decree of amendment), certificate of correction, corrected certificate, or restated certificate, the certificate of trust shall be amended or restated as set forth therein. Upon the effective time of a certificate of cancellation (or a judicial decree thereof) or a certificate of merger or consolidation or a certificate of division which acts as a certificate of cancellation or a certificate of transfer or a certificate of conversion to a non-Delaware entity, as provided for therein, the certificate of trust shall be canceled. Upon the effective time of a certificate of termination or amendment, the original certificate identified in the certificate of termination or amendment shall be terminated or amended, as the case may be.

(c) A fee as set forth in § 3813(a)(2) of this title shall be paid at the time of the filing of a certificate of trust, a certificate of amendment, a certificate of correction, a corrected certificate, a certificate of termination or amendment, a certificate of cancellation, a certificate of merger or consolidation, a certificate of conversion, a certificate of transfer, a certificate of transfer and continuance, a certificate of statutory trust ~~domestication~~domestication, a certificate of division or a restated certificate.

Section 9. Amend § 3813, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3813. Fees.

(a) No documents required to be filed under this subchapter shall be effective until the applicable fee required by this section is paid. The following fees shall be paid to and collected by the Secretary of State for the use of this State:

(2) Upon the receipt for filing of a certificate of trust, a certificate of amendment, a certificate of cancellation or a certificate of merger or consolidation, a certificate of correction, a corrected certificate, a certificate of conversion, a certificate of transfer, a certificate of transfer and continuance, a certificate of statutory trust domestication, a certificate of division, a certificate of termination or amendment or a restated certificate, a fee in the amount of up to \$500.

(6) For issuing any certificate of the Secretary of State, including but not limited to a certificate of good standing, other than a certification of a copy under paragraph (a)(3) of this section, a fee in the amount of \$50, except that for issuing any certificate of the Secretary of State that recites all of a statutory trust's filings with the Secretary of State, a fee of \$175 shall be paid for each such certificate. For issuing any certificate via the Secretary of State's online services, a fee of up to \$175 shall be paid for each certificate.

(7) For preparing and providing a written report of a record search, a fee in the amount of up to \$100.

Section 10. Amend § 3814, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3814. Use of names regulated.

(a) The name of each statutory trust as set forth in its certificate of trust must be such as to distinguish it upon the records of the office of the Secretary of State from the name of any corporation, partnership, limited partnership, statutory trust, limited liability ~~company or company~~, registered series of a limited liability company or registered series of a limited partnership reserved, registered, formed or organized under the laws of this State or qualified to do business or registered as a foreign corporation, foreign partnership, foreign limited partnership, foreign statutory trust or foreign limited liability company in this State; provided, however, that a statutory trust may register under any name which is not such as to

distinguish it upon the records of the office of the Secretary of State from the name of any domestic or foreign corporation, partnership, limited partnership, or foreign statutory trust or limited liability ~~company or company~~, registered series of a limited liability company or registered series of a limited partnership reserved, registered, formed or organized under the laws of this State with the written consent of the other corporation, partnership, limited partnership, foreign statutory trust, limited liability ~~company or company~~, registered series of a limited liability company or registered series of a limited partnership, which written consent shall be filed with the Secretary of State, provided further, that, if on July 31, 2011, a statutory trust is registered (with the consent of another statutory trust) under a name which is not such as to distinguish it upon the records in the office of the Secretary of State from the name on such records of such other domestic statutory trust, it shall not be necessary for any such statutory trust to amend its certificate of trust to comply with this subsection.

Section 11. Amend § 3815, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3815. Merger and consolidation.

(a) Pursuant to an agreement of merger or consolidation, a statutory trust may merge or consolidate with or into 1 or more statutory trusts or other business entities formed or organized or existing under the laws of the State of Delaware or any other state or the United States or any foreign country or other foreign jurisdiction, with such statutory trust or other business entity as the agreement shall provide being the surviving or resulting statutory trust or other business entity. Unless otherwise provided in the governing instrument of a statutory ~~trust~~, trust that is not registered as an investment company under the Investment Company Act of 1940, as amended (U.S.C. §§ 809-1 et seq.), an agreement of merger or consolidation shall be approved by each such statutory trust which is to merge or consolidate by all of the ~~trustees and the beneficial owners of such statutory trust~~, beneficial owners and all of the trustees. Unless otherwise provided in the governing instrument of a statutory trust that is registered as an investment company under the Investment Company Act of 1940, as amended (15 U.S.C. §§ 809-1 et seq.), an agreement of merger or consolidation shall be approved by each such statutory trust which is to merge or consolidate by all of the trustees and by the beneficial owners who own more than 50 percent of the then current percentage or other interest in the profits of such statutory trust owned by all of the beneficial owners. In connection with a merger or consolidation hereunder, rights or securities of, or interests in, a statutory trust or other business entity which is a constituent party to the merger or consolidation may be exchanged for or converted into cash, property, rights or securities of, or interests in, the surviving or resulting statutory trust or other business entity or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, a statutory trust or other business entity which is not the surviving or resulting statutory trust or other business entity in the merger or consolidation, may remain outstanding or may be cancelled. Notwithstanding prior approval, an agreement of

merger or consolidation may be terminated or amended pursuant to a provision for such termination or amendment contained in the agreement of merger or consolidation. Unless otherwise provided in the governing instrument of a statutory trust, a statutory trust whose original certificate of trust was filed with the Secretary of State and effective on or prior to July 31, 2020, shall continue to be governed by this subsection (a) as in effect on July 31, 2020.

(h) ~~A~~ Unless otherwise provided in a governing instrument or an agreement of merger or consolidation ~~may provide that contractual or a plan of division, no appraisal rights shall be available with respect to a beneficial interest or another interest in a statutory trust shall be available for any class, group or series of beneficial owners or beneficial interests trust, including in connection with any amendment of a governing instrument, any merger or consolidation in which the statutory trust is a constituent party to the merger or consolidation, any division of the statutory trust or the sale of all or substantially all of the statutory trust's assets. The Court of Chancery shall have jurisdiction to hear and determine any matter relating to any such appraisal rights. provided in a governing instrument or an agreement of merger or consolidation or a plan of division.~~

Section 12. Amend § 3819, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3819. Access to and confidentiality of information; records.

(d) A statutory trust may maintain its records in other than ~~a written paper~~ form, including on, by means of, or in the form of any information storage device, method, or 1 or more electronic networks or databases (including 1 or more distributed electronic networks or databases), if such form is capable of conversion into ~~a written paper~~ form within a reasonable time.

Section 13. Amend § 3821, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3821. Conversion of a statutory trust.

(b) If the governing instrument specifies the manner of authorizing a conversion of the statutory trust, the conversion shall be authorized as specified in the governing instrument. If the governing instrument does not specify the manner of authorizing a conversion of the statutory trust and does not prohibit a conversion of the statutory trust, the conversion shall be authorized in the same manner as is specified in the governing instrument for authorizing a merger or consolidation that involves the statutory trust as a constituent party to the merger or consolidation. If the governing instrument of a statutory trust that is not registered as an investment company under the Investment Company Act of 1940, as amended (15 U.S.C. §§ 809-1 et seq.), does not specify the manner of authorizing a conversion of the statutory trust or a merger or consolidation that involves the statutory trust as a constituent party and does not prohibit a conversion of the

statutory trust, the conversion shall be authorized by the approval by all of the beneficial owners and all of the trustees. If the governing instrument of a statutory trust that is registered as an investment company under the Investment Company Act of 1940, as amended (15 U.S.C. §§ 809-1 et seq.), does not specify the manner of authorizing a conversion of such statutory trust or a merger or consolidation that involves the statutory trust as a constituent party and does not prohibit a conversion of such statutory trust, the conversion shall be authorized by the approval of all of the trustees and by the beneficial owners who own more than 50 percent of the then current percentage or other interest in the profits of such statutory trust owned by all of the beneficial owners. Unless otherwise provided in the governing instrument of a statutory trust, a statutory trust whose original certificate of trust was filed with the Secretary of State and effective on or prior to July 31, 2020, shall continue to be governed by this subsection (b) as in effect on July 31, 2020.

(f) Upon the filing in the Office of the Secretary of State of the certificate of conversion to a non-Delaware entity or upon the future effective date or time of the certificate of conversion to a non-Delaware entity and payment to the Secretary of State of all fees prescribed in this chapter, ~~the Secretary of State shall certify that the statutory trust has filed all documents and paid all fees required by this chapter, and thereupon the statutory trust shall cease to exist as a statutory trust of the State of Delaware. Such~~ A copy of the certificate of conversion to a non-Delaware entity certified by the Secretary of State shall be prima facie evidence of the conversion by such statutory trust out of the State of Delaware.

Section 14. Amend § 3823, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3823. Transfer or continuance of domestic statutory trusts.

(b) If the governing instrument specifies the manner of authorizing a transfer or domestication or continuance described in subsection (a) of this section, the transfer or domestication or continuance shall be authorized as specified in the governing instrument. If the governing instrument does not specify the manner of authorizing a transfer or domestication or continuance described in subsection (a) of this section and does not prohibit such a transfer or domestication or continuance, the transfer or domestication or continuance shall be authorized in the same manner as is specified in the governing instrument for authorizing a merger or consolidation that involves the statutory trust as a constituent party to the merger or consolidation. If the governing instrument of a statutory trust that is not registered as an investment company under the Investment Company Act of 1940, as amended (15 U.S.C. §§ 809-1 et seq.), does not specify the manner of authorizing a transfer or domestication or continuance described in subsection (a) of this section or a merger or consolidation that involves the statutory trust as a constituent party and does not prohibit such a transfer or domestication or continuance, the transfer or domestication or continuance shall be authorized by the approval by all of the beneficial owners and all of the trustees. If the governing instrument of a statutory trust that is registered as an investment

company under the Investment Company Act of 1940, as amended (15 U.S.C. §§ 809-1 et seq.), does not specify the manner of authorizing a transfer or domestication or continuance described in (a) of this Section or a merger or consolidation that involves such statutory trust as a constituent party and does not prohibit such a transfer or domestication or continuance, the transfer or domestication or continuance shall be authorized by the approval of all of the trustees and by the beneficial owners who own more than 50% of the then current percentage or other interest in the profits of such statutory trust owned by all of the beneficial owners. If a transfer or domestication or continuance described in subsection (a) of this section shall be approved as provided in this subsection (b) of this section, a certificate of transfer if the statutory trust's existence as a statutory trust of the State of Delaware is to cease, or a certificate of transfer and continuance if the statutory trust's existence as a statutory trust in the State of Delaware is to continue, executed in accordance with § 3811 of this title, shall be filed in the Office of the Secretary of State in accordance with § 3812 of this title. Unless otherwise provided in the governing instrument of a statutory trust, a statutory trust whose original certificate of trust was filed with the Secretary of State and effective on or prior to July 31, 2020, shall continue to be governed by this subsection (b) as in effect on July 31, 2020. The certificate of transfer or the certificate of transfer and continuance shall state:

(c) Upon the filing in the Office of the Secretary of State of the certificate of transfer or upon the future effective date or time of the certificate of transfer and payment to the Secretary of State of all fees prescribed in this chapter, ~~the Secretary of State shall certify that the statutory trust has filed all documents and paid all fees required by this chapter, and thereupon~~ the statutory trust shall cease to exist as a statutory trust of the State of Delaware. ~~Such~~ A copy of the certificate of transfer certified by the Secretary of State shall be prima facie evidence of the transfer or domestication by such statutory trust out of the State of Delaware. A copy of the certificate of transfer and domestic continuance certified by the Secretary of State shall be prima facie evidence of the domestication or continuance by such statutory trust in another jurisdiction and its continuance as a statutory trust in the State of Delaware.

Section 15. Amend Subchapter I, Chapter 38, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3824. Judicial cancellation of certificate of trust; proceedings.

(a) Upon motion by the Attorney General, the Court of Chancery shall have jurisdiction to cancel the certificate of trust of any statutory trust for abuse or misuse of its statutory trust powers, privileges or existence. The Attorney General shall proceed for this purpose in the Court of Chancery.

(b) The Court of Chancery shall have power, by appointment of trustees, receivers or otherwise, to administer and wind up the affairs of any statutory trust whose certificate of trust shall be canceled by the Court of Chancery under this

section, and to make such orders and decrees with respect thereto as shall be just and equitable respecting its affairs and assets and the rights of its beneficial owners, trustees and creditors.

Section 16. Amend Subchapter I, Chapter 38, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3825. Division of a statutory trust.

(a) As used in this section and § 3810:

(1) "Dividing trust" means the statutory trust that is effecting a division in the manner provided in this section.

(2) "Division" means the division of a dividing trust into 2 or more statutory trusts in accordance with this section.

(3) "Division contact" means, in connection with any division, a natural person who is a Delaware resident, any division trust in such division or any other statutory trust or other business entity formed or organized under the laws of the State of Delaware, which division contact shall maintain a copy of the plan of division for a period of 6 years from the effective date of the division and shall comply with paragraph (g)(3) of this section.

(4) "Division trust" means a surviving trust, if any, and each resulting trust.

(5) "Resulting trust" means a statutory trust formed as a consequence of a division

(6) "Surviving trust" means a dividing trust that survives the division.

(b) Pursuant to a plan of division, any statutory trust may, in the manner provided in this section, be divided into 2 or more statutory trusts. The division of a statutory trust in accordance with this section and, if applicable, the resulting cessation of the existence of the dividing trust pursuant to a certificate of division shall not be deemed to affect the personal liability of any person incurred prior to such division with respect to matters arising prior to such division, nor shall it be deemed to affect the validity or enforceability of any obligations or liabilities of the dividing trust incurred prior to such division; provided, that the obligations and liabilities of the dividing trust shall be allocated to and vested in, and valid and enforceable obligations of, such division trust or trusts to which such obligations and liabilities have been allocated pursuant to the plan of division, as provided in subsection (l) of this section. Each resulting trust in a division shall be formed in compliance with the requirements of this chapter and subsection (i) of this section.

(c) If the governing instrument of the dividing trust specifies the manner of adopting a plan of division, the plan of division shall be adopted as specified in the governing instrument. If the governing instrument of the dividing trust does not specify the manner of adopting a plan of division and does not prohibit a division of the statutory trust, the plan of division shall be adopted in the same manner as is specified in the governing instrument for authorizing a merger or consolidation that involves the statutory trust as a constituent party to the merger or consolidation. If the governing instrument of a

497 dividing trust that is not registered as an investment company under the Investment Company Act of 1940, as amended (15
498 U.S.C. §§ 809-1 et seq.), does not specify the manner of adopting a plan of division or authorizing a merger or
499 consolidation that involves such statutory trust as a constituent party and does not prohibit a division of such statutory trust,
500 the adoption of a plan of division shall be authorized by the approval by of all of the trustees and the beneficial owners of
501 such statutory trust. If the governing instrument of a dividing trust that is registered as an investment company under the
502 Investment Company Act of 1940, as amended (15 U.S.C. §§ 809-1 et seq.), does not specify the manner of adopting a plan
503 of division or authorizing a merger or consolidation that involves such statutory trust as a constituent party and does not
504 prohibit a division of such statutory trust, the adoption of a plan of division shall be authorized by the approval by all of the
505 trustees and the beneficial owners who own more than 50 percent of the then current percentage or other interest in the
506 profits of such dividing trust owned by all of the beneficial owners. Notwithstanding prior approval, a plan of division may
507 be terminated or amended pursuant to a provision for such termination or amendment contained in the plan of division.

508 (d) Unless otherwise provided in a plan of division, the division of a statutory trust pursuant to this section shall
509 not require such statutory trust to wind up its affairs or pay its liabilities and distribute its assets under § 3808 of this title,
510 and the division shall not constitute a dissolution of such statutory trust.

511 (e) In connection with a division under this section, rights or securities of, or interests in, the dividing trust may be
512 exchanged for or converted into cash, property, rights or securities of, or interests in, the surviving trust or any resulting
513 trust or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or
514 interests in, a statutory trust or any other business entity which is not a division trust or may be canceled or remain
515 outstanding (if the dividing trust is a surviving trust).

516 (f) A plan of division adopted in accordance with subsection (c) of this section:

517 (1) May effect any amendment to the governing instrument of the dividing trust if it is a surviving trust in the
518 division; or

519 (2) May effect the adoption of a new governing instrument for the dividing trust if it is a surviving trust in the
520 division; and

521 (3) Shall effect the adoption of a governing instrument for each resulting trust.

522 Any amendment to a governing instrument or adoption of a new governing instrument for the dividing trust, if it is
523 a surviving trust in the division, or adoption of a governing instrument for each resulting trust made pursuant to the
524 foregoing sentence shall be effective at the effective time or date of the division. Any amendment to a governing instrument
525 or adoption of a governing instrument for the dividing trust, if it is a surviving trust in the division, shall be effective
526 notwithstanding any provision in the governing instrument of the dividing trust relating to amendment or adoption of a new

governing instrument, other than a provision that by its terms applies to an amendment to the governing instrument or the adoption of a new governing instrument, in either case, in connection with a division, merger or consolidation.

(g) If a statutory trust is dividing under this section, the dividing trust shall adopt a plan of division which shall set forth:

(1) The terms and conditions of the division, including:

a. Any conversion or exchange of the beneficial interests of the dividing trust into or for beneficial interests or other securities or obligations of any division trust or cash, property or rights or securities or obligations of or interests in any other business entity or statutory trust which is not a division trust, or that the beneficial interests of the dividing trust shall remain outstanding or be canceled, or any combination of the foregoing; and

b. The allocation of assets, property, rights, series, debts, liabilities and duties of the dividing trust among the division trusts;

(2) The name of each resulting trust and, if the dividing trust will survive the division, the name of the surviving trust;

(3) The name and business address of a division contact which shall have custody of a copy of the plan of division. The division contact, or any successor division contact, shall serve for a period of 6 years following the effective date of the division. During such 6-year period the division contact shall provide, without cost, to any creditor of the dividing trust, within 30 days following the division contact's receipt of a written request from any creditor of the dividing trust, the name and business address of the division trust to which the claim of such creditor was allocated pursuant to the plan of division; and

(4) Any other matters that the dividing trust determines to include therein.

(h) If a statutory trust divides under this section, the dividing trust shall file a certificate of division executed by at least one trustee of the dividing trust on behalf of such dividing trust in the office of the Secretary of State in accordance with § 3811 of this title and a certificate of trust that complies with § 3810 of this title for each resulting trust executed by all of the trustees of each resulting trust in accordance with § 3811 of this title. The certificate of division shall state:

(1) The name of the dividing trust and, if it has been changed, the name under which its certificate of trust was originally filed and whether the dividing trust is a surviving trust;

(2) The date of filing of the dividing trust's original certificate of trust with the Secretary of State;

(3) The name of each division trust;

(4) The name and business address of the division contact required by paragraph (g)(3) of this section;

557 (5) The future effective date or time (which shall be a date or time certain) of the division if it is not to be
558 effective upon the filing of the certificate of division;

559 (6) That the division has been approved in accordance with this section;

560 (7) That the plan of division is on file at a place of business of such division trust as is specified therein, and
561 shall state the address thereof; and

562 (8) That a copy of the plan of division will be furnished by such division trust as is specified therein, on
563 request and without cost, to any beneficial owner of the dividing trust; and

564 (9) Any other information the dividing trust determines to include therein.

565 (i) The certificate of division and each certificate of formation for each resulting trust required by subsection (h) of
566 this section shall be filed simultaneously in the office of the Secretary of State and, if such certificates are not to become
567 effective upon their filing as permitted by § 3812(b) of this title, then each such certificate shall provide for the same
568 effective date or time in accordance with § 3812(b) of this title. Concurrently with the effective date or time of a division,
569 the governing instrument of each resulting trust shall become effective.

570 (j) A certificate of division shall act as a certificate of cancellation for a dividing trust which is not a surviving
571 trust.

572 (k) A governing instrument may provide that a statutory trust shall not have the power to divide as set forth in this
573 section.

574 (l) Upon the division of a statutory trust becoming effective:

575 (1) The dividing trust shall be divided into the distinct and independent resulting trusts named in the plan of
576 division, and, if the dividing trust is not a surviving trust, the existence of the dividing trust shall cease.

577 (2) For all purposes of the laws of the State of Delaware, all of the rights, privileges and powers, and all the
578 property, real, personal and mixed, of the dividing trust and all debts due on whatever account to it, as well as all other
579 things and other causes of action belonging to it, shall without further action be allocated to and vested in the
580 applicable division trust in such a manner and basis and with such effect as is specified in the plan of division, and the
581 title to any real property or interest therein allocated to and vested in any division trust shall not revert or be in any way
582 impaired by reason of the division.

583 (3) Each division trust shall, from and after effectiveness of the certificate of division, be liable as a separate
584 and distinct statutory trust for such debts, liabilities and duties of the dividing trust as are allocated to such division
585 trust pursuant to the plan of division in the manner and on the basis provided in paragraph (g)(1)b. of this section.

586 (4) Each of the debts, liabilities and duties of the dividing trust shall without further action be allocated to and
587 be the debts, liabilities and duties of such division trust as is specified in the plan of division as having such debts,
588 liabilities and duties allocated to it, in such a manner and basis and with such effect as is specified in the plan of
589 division, and no other division trust shall be liable therefor, so long as the plan of division does not constitute a
590 fraudulent transfer under applicable law, and all liens upon any property of the dividing trust shall be preserved
591 unimpaired, and all debts, liabilities and duties of the dividing trust shall remain attached to the division trust to which
592 such debts, liabilities and duties have been allocated in the plan of division, and may be enforced against such division
593 trust to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its
594 capacity as a statutory trust.

595 (5) In the event that any allocation of assets, debts, liabilities and duties to division trusts in accordance with a
596 plan of division is determined by a court of competent jurisdiction to constitute a fraudulent transfer, each division trust
597 shall be jointly and severally liable on account of such fraudulent transfer notwithstanding the allocations made in the
598 plan of division; provided, however, the validity and effectiveness of the division are not otherwise affected thereby.

599 (6) Debts and liabilities of the dividing trust that are not allocated by the plan of division shall be the joint and
600 several debts and liabilities of all of the division trusts.

601 (7) It shall not be necessary for a plan of division to list each individual asset, property, right, series, debt,
602 liability or duty of the dividing trust to be allocated to a division trust so long as the assets, property, rights, series,
603 debts, liabilities or duties so allocated are reasonably identified by any method where the identity of such assets,
604 property, rights, series, debts, liabilities or duties is objectively determinable.

605 (8) The rights, privileges, powers and interests in property of the dividing trust that have been allocated to a
606 division trust, as well as the debts, liabilities and duties of the dividing trust that have been allocated to such division
607 trust pursuant to a plan of division, shall remain vested in each such division trust and shall not be deemed, as a result
608 of the division, to have been assigned or transferred to such division trust for any purpose of the laws of the State of
609 Delaware.

610 (9) Any action or proceeding pending against a dividing trust may be continued against the surviving trust as
611 if the division did not occur, but subject to subsection (l)(4) of this section, and against any resulting trust to which the
612 asset, property, right, series, debt, liability or duty associated with such action or proceeding was allocated pursuant to
613 the plan of division by adding or substituting such resulting trust as a party in the action or proceeding.

614 (m) In applying the provisions of this chapter on distributions, a direct or indirect allocation of property or
615 liabilities in a division is not deemed a distribution for purposes of this chapter.

616 (n) The provisions of this section shall not be construed to limit the means of accomplishing a division by any
617 other means provided for in a governing instrument or other agreement or as otherwise permitted by this chapter or as
618 otherwise permitted by law.

619 (o) All statutory trusts formed on or after August 1, 2020, shall be governed by this section. All statutory trusts
620 formed prior to August 1, 2020, shall be governed by this section; provided, that if the dividing trust is a party to any
621 written contract, indenture or other agreement entered into prior to August 1, 2020, that, by its terms, restricts, conditions or
622 prohibits the consummation of a merger or consolidation by the dividing trust with or into another party, or the transfer of
623 assets by the dividing trust to another party, then such restriction, condition or prohibition shall be deemed to apply to a
624 division as if it were a merger, consolidation or transfer of assets, as applicable.

625 Section 17. Amend Subchapter I, Chapter 38, Title 12 of the Delaware Code by making deletions as shown by
626 strike through and insertions as shown by underline as follows:

627 § 3826. Document form, signature and delivery.

628 (a) Except as provided in subsection (b) of this section, without limiting the manner in which any act or transaction
629 may be documented, or the manner in which a document may be signed or delivered:

630 (1) Any act or transaction contemplated or governed by this subchapter or the governing instrument may be
631 provided for in a document, and an electronic transmission is the equivalent of a written document.

632 (2) Whenever this subchapter or the governing instrument requires or permits a signature, the signature may
633 be a manual, facsimile, conformed or electronic signature. "Electronic signature" means an electronic symbol or
634 process that is attached to, or logically associated with, a document and executed or adopted by a person with an intent
635 to execute, authenticate or adopt the document. A person may execute a document with such person's signature.

636 (3) Unless otherwise provided in the governing instrument or agreed between the sender and recipient, an
637 electronic transmission is delivered to a person for purposes of this subchapter and the governing instrument when it
638 enters an information processing system that the person has designated for the purpose of receiving electronic
639 transmissions of the type delivered, so long as the electronic transmission is in a form capable of being processed by
640 that system and such person is able to retrieve the electronic transmission. Whether a person has so designated an
641 information processing system is determined by the governing instrument or from the context and surrounding
642 circumstances, including the parties' conduct. An electronic transmission is delivered under this section even if no
643 person is aware of its receipt. Receipt of an electronic acknowledgement from an information processing system
644 establishes that an electronic transmission was received but, by itself, does not establish that the content sent
645 corresponds to the content received.

This subchapter shall not prohibit one or more persons from conducting a transaction in accordance with chapter 12A of title 6 so long as the part or parts of the transaction that are governed by this subchapter are documented, signed and delivered in accordance with this subsection (a) or otherwise in accordance with this subchapter. This subsection (a) shall apply solely for purposes of determining whether an act or transaction has been documented, and the document has been signed and delivered, in accordance with this subchapter and the governing instrument.

(b) Subsection (a) of this section shall not apply to: (1) a document filed with or submitted to the Secretary of State, the Prothonotary, the Register in Chancery, or a court or other judicial or governmental body of this State, (2) a certificate of beneficial interest, and (3) an act or transaction effected pursuant to Section 3804(c), 3807(c)-(g), or subchapter II of this chapter. The foregoing shall not create any presumption about the lawful means to document a matter addressed by this subsection (b), or the lawful means to sign or deliver a document addressed by this subsection (b). A provision of the governing instrument shall not limit the application of subsection (a) of this section unless the provision expressly restricts one or more of the means of documenting an act or transaction, or of signing or delivering a document, permitted by subsection (a).

(c) In the event that any provision of this subchapter is deemed to modify, limit or supersede the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et. seq., the provisions of this subchapter shall control to the fullest extent permitted by section 7002(a)(2) of such act.

Section 18. Amend § 3854, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3854. Name; registered office; registered agent.

(a) A foreign statutory trust may register with the Secretary of State under any name (whether or not it is the name under which it is registered in the jurisdiction of its formation) that could be registered by a domestic statutory trust; provided however, that a foreign statutory trust may register under any name which is not such as to distinguish it upon the records in the Office of the Secretary of State from the name on such records of any domestic or foreign corporation, partnership, statutory trust, limited liability company, ~~or limited partnership~~, registered series of a limited liability company or registered series of a limited partnership reserved, registered, formed or organized under the laws of the State with the written consent of the other corporation, partnership, statutory trust, limited liability company, ~~or limited partnership~~, registered series of a limited liability company or registered series of a limited partnership, which written consent shall be filed with the Secretary of State.

(b) Each foreign statutory trust shall have and maintain in the State:

(1) A registered office which may but need not be a place of its business in the State; and

(2) A registered agent for service of process on the foreign statutory trust, having a business office identical with such registered office which agent may be any of:

- a. An individual resident of the State of Delaware;
- b. A domestic limited liability company, a domestic corporation, a domestic partnership (whether general (including a limited liability partnership) or limited (including a limited liability limited partnership)), or a domestic statutory trust; or
- c. A foreign corporation, a foreign ~~partnership (whether general (including a limited liability partnership) or~~ a foreign limited partnership (including a foreign limited liability limited partnership), a foreign limited liability company or a foreign statutory trust (other than the foreign statutory trust itself).

(c) A registered agent may change the address of the registered office of the foreign statutory trust or trusts for which the agent is registered agent to another address in the State by paying a fee as set forth in § 3862 of this title and filing with the Secretary of State a certificate, executed by such registered agent, setting forth the address at which such registered agent has maintained the registered office for each of the foreign statutory trusts for which it is a registered agent and further certifying to the new address to which each such registered office will be changed on a given day and at which new address such registered agent will thereafter maintain the registered office for each of the foreign statutory trusts for which it is registered agent. Upon the filing of such certificate, ~~the Secretary of State shall furnish to the registered agent a certified copy of the same under the Secretary's hand and seal of office, and thereafter, or until further change of address, as~~ authorized by law the registered offices in the State each of the foreign statutory trusts for which the agent is registered agent shall be located at the new address of the registered agent thereof as given in the certificate. In the event of a change of name of any person acting as a registered agent of a foreign statutory trust, such registered agent shall file with the Secretary of State a certificate, executed by such registered agent, setting forth the new name of such registered agent, the name of such registered agent before it was changed, and the address at which such registered agent has maintained the registered office for each of the foreign statutory trusts for which it is registered agent, and shall pay a fee as set forth in § 3862 of this title. ~~Upon the filing of such certificate, the Secretary of State shall furnish to the registered agent a certified copy of the same under the Secretary's hand and seal of office.~~ A change of name of any person acting as a registered agent of a foreign statutory trust as a result of the (i) a merger or consolidation of the registered agent, with or into another person which succeeds to its assets and liabilities by operation of law, (ii) the conversion of the registered agent into another person, or (iii) a division of the registered agent in which an identified resulting person succeeds to all of the assets and liabilities of the registered agent related to its registered agent business pursuant to the plan of division, as set forth in the

706 certificate of division, shall each be deemed a change of name for purposes of this section. Filing a certificate under this
707 section shall be deemed to be an amendment of the application of each foreign statutory trust affected thereby, and each
708 foreign statutory trust shall not be required to take any further action with respect thereto to amend its application under §
709 3855 of this title. Any registered agent filing a certificate under this section shall promptly, upon such filing, deliver a copy
710 of any such certificate to each foreign statutory trust affected thereby.

711 (d) The registered agent of 1 or more foreign statutory trusts may resign and appoint a successor registered agent
712 by paying a fee as set forth in § 3862 of this title and filing a certificate with the Secretary of State stating that it resigns
713 and the name and address of the successor registered agent. There shall be attached to such certificate a statement of each
714 affected foreign statutory trust ratifying and approving such change of registered agent. Upon such filing, the successor
715 registered agent shall become the registered agent of such foreign statutory trust as has ratified and approved such
716 substitution and the successor registered agent's address, as stated in such certificate, shall become the address of each such
717 foreign statutory trust's registered office in the State. ~~The Secretary of State shall then issue a certificate that the successor~~
718 ~~registered agent has become the registered agent of the foreign statutory trusts so ratifying and approving such change and~~
719 ~~setting out the names of such foreign statutory trusts.~~ Filing of such certificate of resignation shall be deemed to be an
720 amendment of the application of each foreign statutory trust affected thereby, and each such foreign statutory trust shall not
721 be required to take any further action with respect thereto to amend its application under § 3855 of this title.

722 (e) The registered agent of ~~1 or more foreign statutory trusts~~ a foreign statutory trust may resign without
723 appointing a successor registered agent by paying a fee as set forth in § 3862 of this title and filing a certificate of
724 resignation with the Secretary of State, but such resignation shall not become effective until 30 days after the certificate is
725 filed. The certificate shall contain a statement that written notice of resignation was given to ~~each affected~~ the foreign
726 statutory trust at least 30 days prior to the filing of the certificate by mailing or delivering such notice to the foreign
727 statutory trust at its address last known to the registered agent and shall set forth the date of such notice. The certificate
728 shall include such information last provided to the registered agent pursuant to § 3807(k) of this title for a communications
729 contact for the foreign statutory trust. Such information regarding the communications contact shall not be deemed public.
730 A certificate filed pursuant to this subsection must be on the form prescribed by the Secretary of State. After receipt of the
731 notice of the resignation of its registered agent, the foreign statutory trust for which such registered agent was acting shall
732 obtain and designate a new registered agent to take the place of the registered agent so resigning. If such foreign statutory
733 trust fails to obtain and designate a new registered agent as aforesaid prior to the expiration of the period of 30 days after
734 the filing by the registered agent of the certificate of resignation, such foreign statutory trust shall not be permitted to do
735 business in the State and its registration shall be canceled. After the resignation of the registered agent shall have become

effective as provided in this section and if no new registered agent shall have been obtained and designated in the time and manner aforesaid, service of legal process against the foreign statutory trust for which the resigned registered agent had been acting shall thereafter be upon the Secretary of State in accordance with § 3861 of this title.

Section 19. This Act shall become effective August 1, 2020.

SYNOPSIS

This bill continues the practice of amending periodically the Delaware Statutory Trust Act (the "Act") to keep it current and to maintain its national preeminence. The following is a section-by-section review of the proposed amendments of the Act.

Section 1. This section amends Section 3801 of the Act to add new definitions for "document" and "electronic transmission," which terms appear in new Section 3826 among other places in the Act.

Section 2. This section amends Section 3804(a) of the Act to confirm that a trust may enter into contracts on behalf of a series of the statutory trust with and on behalf of another series of the statutory trust or with itself. This Section also confirms certain circumstances under which a statutory trust shall be the "debtor" in connection with liens or security interests granted in any assets of a series or any assets associated with a series of the statutory trust.

Section 3. This Section amends Section 3805(f) of the Act to clarify that a trustee is not a necessary party to a contract or other instrument to which a statutory trust is a party solely because a trustee holds legal title to statutory trust property.

Section 4. This section amends Section 3806 of the Act to conform with the addition of the defined term "electronic transmission" in Section 3801.

Sections 5 and 18. These sections amend Sections 3807(e) and 3854(c) of the Act to eliminate the requirement that the Secretary of State issue a certified copy of any certificate filed by the registered agent changing the address of the registered office or the name of the registered agent. These sections also amend Sections 3807(e) and 3854(c) of the Act to confirm that the conversion of the registered agent or a division of the registered agent in which a resulting person succeeds to all of the registered agent business of such registered agent shall be deemed to be a change of name for purposes of these sections of the Act. These sections also amend Sections 3807(f) and 3854(d) of the Act to eliminate the requirement that the Secretary of State issue a certificate in connection with the resignation of the registered agent of a statutory trust or foreign statutory trust and the appointment of the successor registered agent.

Sections 5 and 18. These sections also amend Section 3807(g) and Section 3854(e) of the Act to provide that the resignation of a registered agent of a statutory trust or foreign statutory trust without appointing a successor must be done on a single trust basis by paying a fee and filing a certificate of resignation with the Secretary of State. These sections also amend Sections 3807(g) and 3854(e) of the Act to add requirements regarding the content and form of the certificate of resignation filed with the Delaware Secretary of State when the registered agent resigns without appointing a successor, and provide that such information regarding the communications contact that must be included in such a certificate shall not be deemed public.

Section 5. This section also amends Section 3807 of the Act by adding new subsections (i)-(m) to prescribe the duties of a registered agent; require that persons or entities serving as registered agent for more than fifty entities (a "Commercial Registered Agent") be generally open during normal business hours and have a natural person present to operate such office and communicate with the Secretary of State on request; require Delaware statutory trusts to provide registered agents with a designated natural person to receive communications from the registered agent and require the registered agent to maintain in its records the identity of such persons; authorize the Secretary of State to issue regulations to enforce these provisions; authorize the Secretary of State to bring a lawsuit in the Court of Chancery to enjoin any person or entity from acting as a registered agent, or as an officer, or director or managing agent of a registered agent, any person or entity who fails to comply with the statutory requirements, who has been convicted of a felony or any crime involving dishonesty, fraud or moral turpitude, or who has used the office of registered agent in a manner intended to defraud the public; and provide that the certificate of trust or registration of a statutory trust or foreign statutory trust will be cancelled if it fails, within a prescribed period, to obtain and designate a new registered agent if the Court of Chancery enjoins any person or entity from acting as a registered agent for such statutory trust.

Section 6. This section amends Section 3810(d) of the Act to include a reference to a certificate of division.

Section 7. This section amends Section 3811(a)(4) of the Act to provide for the manner in which a certificate of division must be executed.

Section 8. This section amends Sections 3812(b) and 3812(c) of the Act to include a reference to a certificate of division.

Section 9. This section amends Section 3813(a)(2) of the Act to provide for the fee payable to the Delaware Secretary of State for the filing of a certificate of division pursuant to the Act, Section 3813(a)(6) to provide for the fee for the issuance of any certificate issued via the Secretary of State's online services and Section 3813(a)(7) to provide for the fee payable for a written report of a record search.

Sections 10 and 18. These sections amend Section 3814(a) and Section 3854(a) of the Act to clarify requirements regarding the name under which a statutory trust or a foreign statutory trust may register with the Secretary of State.

Section 11. This section amends Section 3815(a) of the Act to provide a majority vote default rule for a merger or consolidation entered into by a statutory trust registered as an investment company under the Investment Company Act of 1940 unless otherwise provided in the governing instrument of such statutory trust. This amendment provides that the amendment does not apply to statutory trusts formed prior to the effectiveness of the amendment unless otherwise provided in the governing instrument of such statutory trust.

Section 11. This section also amends Section 3815(h) of the Act to confirm that no appraisal rights are available with respect to a beneficial interest or another interest in a statutory trust, including in connection with the enumerated transactions unless otherwise provided for in the enumerated documents and adds reference to a plan of division as a document that may include appraisal rights.

Section 12. This section amends Section 3819(d) of the Act to confirm that a statutory trust may maintain its books, records and other information in other than paper form (including electronic form) if such form is capable of conversion into paper form within a reasonable time.

Section 13. This section amends Section 3821(b) of the Act to provide a majority vote default rule for approving a conversion of a statutory trust registered as an investment company under the Investment Company Act of 1940 unless otherwise provided in the governing instrument of such statutory trust. This amendment provides that the amendment does not apply to statutory trusts formed prior to the effectiveness of the amendment unless otherwise provided in the governing instrument of such statutory trust.

Sections 13 and 14. These sections amend Sections 3821(f) and 3823(c) of the Act with regard to certifications provided by the Secretary of State in connection with the filing of a certificate of transfer, a certificate of transfer and domestic continuance and a certificate of conversion to non-Delaware entity.

Section 14. This section also amends Section 3823(b) of the Act to provide a majority vote default rule for approving a transfer or domestication or continuance of a statutory trust registered as an investment company under the Investment Company Act of 1940 unless otherwise provided in the governing instrument of such statutory trust. This amendment provides that the amendment does not apply to statutory trusts formed prior to the effectiveness of the amendment unless otherwise provided in the governing instrument of such statutory trust.

Section 15. This section adds new Section 3824 of the Act to provide that, upon motion by the Attorney General, the Court of Chancery may cancel the certificate of trust of any statutory trust for abuse or misuse of its statutory trust powers, privileges or existence

Section 16. This section adds new Section 3825 of the Act to enable a statutory trust to divide into one or more newly formed statutory trusts with the dividing trust continuing its existence or terminating its existence, as the case may be.

Section 17. This section adds new Section 3826 of the Act, which establishes non-exclusive, safe harbor methods to reduce certain acts or transactions to a written or electronic document and to sign and deliver a document manually or electronically. The terminology in Section 3826(a) is based on analogous provisions in existing Sections 3806 of the Act, the Delaware Uniform Electronic Transactions Act ("UETA"), and the Model Business Corporation Act, with

modifications. Section 3826(a) permits statutory trust transactions (such as entering into agreements of merger not filed with the Secretary of State) to be documented, signed and delivered through "DocuSign" and similar electronic means.

The Section 3826(a) safe harbor provisions apply solely for purposes of determining whether an act or transaction has been documented, and whether a document has been signed and delivered, in accordance with the Act and the governing instrument. Section 3826(a) does not preempt any statute of frauds or other law that might require actions be documented, or that documents be signed and delivered, in a specified manner.

Section 3826(a) clarifies how its provisions operate in connection with a transaction conducted pursuant to UETA. To the extent UETA does not apply to a transaction (under Section 12A-103 of UETA) because the transaction is governed by the Act, the parties to the transaction can satisfy the Act by complying with Section 3826(a).

Section 3826(b) addresses certain actions and documents that are not governed by Section 3826(a). There is no presumption that these excluded items are prohibited from being effected by electronic or other means, but Section 3826 may not be relied on as a basis for documenting an act or transaction, or signing or delivering a document, if the exclusions set forth in Section 3826(b) apply. Certain of these excluded items are governed by separate provisions that facilitate the use of electronic media, including documents filed with the Secretary of State (governed by Section 3812(a)).

Section 3826(b) permits governing instrument provisions that restrict the use of Section 3826(a), but those restrictions must be expressly stated. A provision merely specifying that an act or transaction will be documented in writing, or that a document will be signed or delivered manually, will not prohibit the application of Section 3826(a).

Section 3826(c) addresses the interaction between the provisions of the Act and the Electronic Signatures in Global and National Commerce Act (the "E-Sign Act"). Section 3826(c) evidences an intent to allow the Act to govern the documentation of actions, and the signature and delivery of documents, to the fullest extent the Act is not preempted by the E-Sign Act.

Section 18. This section also amends Section 3854(b)(2)c. of the Act to clarify the types of foreign entities that may be a registered agent of a foreign statutory trust.

Section 19. This section provides that the proposed amendments to the Act shall become effective August 1, 2020.

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