

PRICKETT, JONES & ELLIOTT

A PROFESSIONAL ASSOCIATION

1310 KING STREET, BOX 1328

WILMINGTON, DELAWARE 19899

TEL: (302)888-6500

FAX: (302)658-8111

<http://www.prickett.com>

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**2010 Delaware General Corporation
Law Amendments**

Delaware Governor Jack Markell recently signed into law two bills approved by the Delaware General Assembly amending provisions of the Delaware General Corporation Law. House Bill 341 overhauls the nonstock corporation provisions of the DGCL. House Bill 375 contains the annual "update" amendments to the DGCL.

HOUSE BILL 341

Signed into law by the Governor on May 3, 2010, and effective August 1, 2010 (except for certain provisions related to appraisal and dissolution) House Bill 341 implements comprehensive amendments to the DGCL's provisions related to nonstock corporations. The DGCL applies to both stock and nonstock corporations, including, with respect to the latter, for profit, non-profit and charitable corporations. Although the 1967 revision of the DGCL accomplished a sweeping overhaul of the corporation law, treatment of nonstock corporations in the statutes remained inconsistent and at times sketchy, creating uncertainty as to the application of some DGCL provisions to nonstock corporations.

The amendments set forth in House Bill 341 remove the statutory uncertainty surrounding nonstock corporations. Developed over a two year period by a subcommittee of Delaware's Corporation Law Council, the amendments provide clarity to the 18,000 nonstock corporations registered in Delaware. The centerpiece of the amendments is a new Section 114, a "translator" provision that defines those provisions of the DGCL applicable to nonstock corporations and those that apply to non-profit, nonstock corporations. The amendments were formulated to avoid creating new, surprise requirements or other traps for the unwary. They are intended to and will apply seamlessly to nonstock corporations.

HOUSE BILL 375

The annual "update" amendments to the DGCL were signed into law by the Governor on June 10, 2010. The amendments are effective August 2, 2010 (except for certain provisions related to appraisal). Highlights of the amendments include the following:

Secretary of State Provisions - Amendments to several sections authorize service of process on the Secretary of State by means of electronic transmission, but only as prescribed by the Secretary of State. Other amendments relate to requirements for registered agents and certain filing requirements.

Advancement and Indemnification - The amendments clarify that litigation expenses may be advanced to persons serving at the request of the corporation as directors, officers, or employees of another corporation.

Certificate Amendments and Merger Procedures - Amendments to Sections 242 (certificate amendments) and 251 (mergers) streamline ministerial requirements for securing stockholder approval of a certificate amendment or merger agreement. Both statutes require the corporation to disseminate to stockholders either a summary or a complete copy of the amendment or agreement. The amendments clarify that the decision to disseminate either a summary or a complete copy need not be made by the board of directors.

Certificate Amendments in Conjunction with Mergers - Clarifying amendments to the merger statutes confirm that, in a merger, the certificate of the surviving corporation may be amended in its entirety.

New Section 267: Expanding the Availability of Short Form Mergers - The DGCL currently authorizes short form mergers, but only where the parent is a corporation. New Section 267 provides a mechanism for the short form merger of a subsidiary corporation or corporations and a parent non-corporate entity.

Application of Dissolution Provisions to Expired SPACs - Amendments to the DGCL's dissolution statutes and those relating to the winding up of a corporation confirm that such provisions apply to a corporation that has expired by its own terms.

Jim Holzman