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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO CORPORATIONS, ASSOCIATIONS, AND PARTNERSHIPS -- RHODE
ISLAND BUSINESS CORPORATION ACT

Introduced By: Representatives Marszalkowski, McLaughlin, and Quattrocchi

Date Introduced: March 01, 2017

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 7-1.2-1008, 7-1.2-1309 and 7-1.2-1413 of the General Laws in
2 Chapter 7-1.2 entitled "Rhode Island Business Corporation Act" are hereby amended to read as
3 follows:

4 **7-1.2-1008. Conversion of a domestic corporation to other entities.**

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

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

1 voting or nonvoting, shall be voted for the adoption of the resolution, the conversion shall be
2 authorized.

3 (c) If a corporation shall convert in accordance with this section to another entity
4 organized, formed, or created under the laws of a jurisdiction other than the state of Rhode Island
5 or to a Rhode Island unincorporated "other entity", upon payment of all fees and taxes by the
6 corporation, as evidenced by ~~an appropriate certificate of good standing issued by the Rhode~~
7 ~~Island division of taxation~~ a certified public accountant (CPA) certifying, in writing, that no
8 outstanding taxes and/or fees are due to the Rhode Island division of taxation, the corporation
9 shall file with the secretary of state a certificate of conversion to non-Rhode Island entity,
10 executed in accordance with § 7-1.2-105, that certifies:

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

13 (2) The date of filing of its original articles of incorporation with the secretary of state;

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

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

18 (5) The agreement of the corporation that it may be served with process in the state of
19 Rhode Island in any action, suit, or proceeding for enforcement of any obligation of the
20 corporation arising while it was a corporation of this state, and that it irrevocably appoints the
21 secretary of state as its agent to accept service of process in any such action, suit, or proceeding;
22 and

23 (6) The address to which a copy of the process referred to in subsection (c)(5) of this
24 section shall be mailed to it by the secretary of state. In the event of such service upon the
25 secretary of state in accordance with subsection (c)(5) of this section, the secretary of state shall
26 forthwith notify such corporation that has converted out of the state of Rhode Island by letter,
27 certified mail, return receipt requested, directed to such corporation that has converted out of the
28 state of Rhode Island at the address so specified, unless such corporation shall have designated in
29 writing to the secretary of state a different address for such purpose, in which case it shall be
30 mailed to the last address designated. Such letter shall enclose a copy of the process and any other
31 papers served on the secretary of state pursuant to this subsection. It shall be the duty of the
32 plaintiff in the event of such service to serve process and any other papers in duplicate; to notify
33 the secretary of state that service is being affected pursuant to this subsection; and to pay the
34 secretary of state the sum of fifteen dollars (\$15.00) for the use of the state, which sum shall be

1 taxed as part of the costs in the proceeding, if the plaintiff shall prevail therein. The secretary of
2 state shall maintain an alphabetical record of any such service setting forth the name of the
3 plaintiff and the defendant; the title, docket number and nature of the proceeding in which process
4 has been served; the fact that service has been effected pursuant to this subsection; the return date
5 thereof; and the day and hour service was made. The secretary of state shall not be required to
6 retain such information longer than five (5) years from receipt of the service of process.

7 (d) Upon the filing in the office of the secretary of state of a certificate of conversion to
8 non-Rhode Island entity in accordance with subsection (c) of this section, or upon the future
9 effective date or time of the certificate of conversion to non-Rhode Island entity and payment to
10 the secretary of state of all fees prescribed under this title, the secretary of state shall certify that
11 the corporation has filed all documents and paid all fees required by this title, and thereupon the
12 corporation shall cease to exist as a corporation of this state at the time the certificate of
13 conversion becomes effective in accordance with § 7-1.2-105. Such certificate of the secretary of
14 state shall be prima facie evidence of the conversion by such corporation out of the state of Rhode
15 Island.

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

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

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

32 (h) When a corporation has been converted to another entity or business form pursuant to
33 this section, the other entity or business form shall, for all purposes of the laws of the state of
34 Rhode Island, be deemed to be the same entity as the corporation. When any conversion shall

1 have become effective under this section, for all purposes of the laws of the state of Rhode Island,
2 all of the rights, privileges and powers of the corporation that has converted, and all property,
3 real, personal and mixed, and all debts due to such corporation, as well as all other things and
4 causes of action belonging to such corporation, shall remain vested in the other entity or business
5 form to which such corporation has converted and shall be the property of such other entity or
6 business form, and the title to any real property vested by deed or otherwise in such corporation
7 shall not revert to such corporation or be in any way impaired by reason of this chapter; but all
8 rights of creditors and all liens upon any property of such corporation shall be preserved
9 unimpaired, and all debts, liabilities and duties of the corporation that has converted shall remain
10 attached to the other entity or business form to which such corporation has converted, and may be
11 enforced against it to the same extent as if said debts, liabilities and duties had originally been
12 incurred or contracted by it in its capacity as such other entity or business form. The rights,
13 privileges, powers and interest in property of the corporation that has converted, as well as the
14 debts, liabilities and duties of such corporation, shall not be deemed, as a consequence of the
15 conversion, to have been transferred to the other entity or business form to which such
16 corporation has converted for any purposes of the laws of the state of Rhode Island.

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

20 **7-1.2-1309. Filing of articles of dissolution.**

21 (a) The articles of dissolution are delivered to the secretary of state. If the secretary of
22 state finds that the articles of dissolution conform to law, the secretary of state shall, when all fees
23 and taxes have been paid, as evidenced by ~~an appropriate certificate of good standing issued by~~
24 ~~the Rhode Island division of taxation~~ a certified public accountant (CPA) certifying, in writing,
25 that no outstanding taxes and/or fees are due to the Rhode Island division of taxation:

- 26 (1) Endorse on the original the word "Filed," and the month, day, and year of the filing.
27 (2) File the original in his or her office.
28 (3) Issue a certificate of dissolution.

29 (b) The certificate of dissolution is delivered to the representative of the dissolved
30 corporation. Upon the issuance of the certificate of dissolution the existence of the corporation
31 ceases, except for the purpose of suits, other proceedings, and appropriate corporate action by
32 shareholders, directors, and officers as provided in this chapter.

33 **7-1.2-1413. Filing of application for withdrawal.**

34 (a) An original application for withdrawal must be delivered to the secretary of state. If

1 the secretary of state finds that the application conforms to the provisions of this chapter, the
2 secretary of state shall, when all fees and taxes have been paid, as evidenced by ~~an appropriate~~
3 ~~certificate of good standing issued by the Rhode Island division of taxation~~ a certified public
4 accountant (CPA) certifying, in writing, that no outstanding taxes and/or fees are due to the
5 Rhode Island division of taxation:

6 (1) Endorse on the original the word "Filed," and the month, day, and year of the filing.

7 (2) File the original in his or her office.

8 (3) Issue a certificate of withdrawal.

9 (b) The secretary of state shall deliver the certificate of withdrawal to the corporation or
10 its representative. Upon the issuance of the certificate of withdrawal, the authority of the
11 corporation to transact business in this state ceases.

12 SECTION 2. Sections 7-13-8.2 and 7-13-10 of the General Laws in Chapter 7-13 entitled
13 "Limited Partnerships" are hereby amended to read as follows:

14 **7-13-8.2. Approval of conversion of a limited partnership.**

15 (a) A domestic limited partnership may convert to a corporation, a business trust or
16 association, a real estate investment trust, a common-law trust, or any other unincorporated
17 business or entity including a partnership, whether general or limited (including a registered
18 limited liability partnership) or a limited liability company, organized, formed, or created under
19 the laws of the state of Rhode Island, upon the authorization of that conversion in accordance
20 with this section. If the partnership agreement specified the manner of authorizing a conversion of
21 the limited partnership, the conversion shall be authorized as specified in the partnership
22 agreement. If the partnership agreement does not specify the manner of authorizing a conversion
23 of the limited partnership and does not prohibit a conversion of the limited partnership, the
24 conversion shall be authorized in the same manner as is specified in the partnership agreement for
25 authorizing a merger or consolidation that involves the limited partnership as a constituent party
26 to the merger or consolidation. If the partnership agreement does not specify the manner of
27 authorizing a conversion of the limited partnership or a merger or consolidation that involved the
28 limited partnership as a constituent party and does not prohibit a conversion of the limited
29 partnership, the conversion shall be authorized by the approval (1) by all general partners, and (2)
30 by the limited partners or, if there is more than one class or group of limited partners, then by
31 each class or group of limited partners, in either case, by limited partners who own more than
32 fifty percent (50%) of the then current percentage or other interest in the profits of the domestic
33 limited partnership owned by all of the limited partners or by the limited partners in each class or
34 group, as appropriate.

1 (b) If a limited partnership shall convert in accordance with this section to another entity
2 or business form organized, formed, or created under the laws of a jurisdiction other than the state
3 of Rhode Island or to a Rhode Island unincorporated "other entity", a certificate of conversion to
4 a non-Rhode Island entity shall be filed in the office of the secretary of state. The certificate of
5 conversion to a non-Rhode Island entity shall state:

6 (1) The name of the limited partnership and, if it has been changed, the name under
7 which its certificate of formation was originally filed;

8 (2) The date of filing of its original certificate of formation with the secretary of state;

9 (3) The jurisdiction in which the entity or business form, to which the limited partnership
10 shall be converted, is organized, formed, or created, and the name and type of such entity or
11 business form;

12 (4) The future effective date or time, which shall be a date or time certain, of the
13 conversion if it is not to be effective upon the filing of the certificate of conversion to a non-
14 Rhode Island entity;

15 (5) That the conversion has been approved in accordance with this section; and

16 (6) The agreement of the limited partnership that it may be served with process in the
17 state of Rhode Island in any action, suit, or proceeding for enforcement of any obligation to the
18 limited partnership arising while it was a limited partnership of the state of Rhode Island, and that
19 it irrevocably appoints the secretary of state as its agent to accept service of process in any such
20 action, suit, or proceeding.

21 (c) Upon the filing in the office of the secretary of state of the certificate of conversion to
22 a non-Rhode Island entity or upon the future effective date or time of the certificate of conversion
23 to a non-Rhode Island entity and upon payment of all fees due by the limited partnership, as
24 evidenced by ~~an appropriate certificate of good standing issued by the Rhode Island division of~~
25 ~~taxation~~ a certified public accountant (CPA) certifying, in writing, that no outstanding taxes
26 and/or fees are due to the Rhode Island division of taxation, the secretary of state shall certify that
27 the limited partnership has filed all documents and paid all fees required by this chapter, and
28 thereupon the limited partnership shall cease to exist as a limited partnership of the state of Rhode
29 Island. Such certificate of the secretary of state shall be prima facie evidence of the conversion by
30 such limited partnership out of the state of Rhode Island.

31 (d) The conversion of a limited partnership out of the state of Rhode Island in accordance
32 with this section and the resulting cessation of its existence as a limited partnership of the state of
33 Rhode Island pursuant to a certificate of conversion to a non-Rhode Island entity shall not be
34 deemed to affect any obligations or liabilities of the limited partnership incurred prior to such

1 conversion or the personal liability of any person incurred prior to such conversion, nor shall it be
2 deemed to affect the choice of laws applicable to the limited partnership with respect to matters
3 arising prior to such conversion.

4 (e) When a limited partnership has been converted to another entity or business form
5 pursuant to this section, the other entity or business form shall, for all purposes of the laws of the
6 state of Rhode Island, be deemed to be the same entity as the limited partnership. When any
7 conversion shall have become effective under this section, for all purposes of the laws of the state
8 of Rhode Island, all of the rights, privileges, and powers of the limited partnership that has
9 converted, and all property, real, personal, and mixed, and all such debts due to such limited
10 partnership, as well as all other things and causes of action belonging to such limited partnership,
11 shall remain vested in the other entity or business form to which such limited partnership has
12 converted and shall be the property of such other entity or business form, and the title to any real
13 property vested by deed or otherwise in such limited partnership shall not revert to such limited
14 partnership or be in any way impaired by reason of this chapter, but all rights of creditors and all
15 liens upon any property of such limited partnership shall be preserved unimpaired, and all debts,
16 liabilities, and duties of the limited partnership that has converted shall remain attached to the
17 other entity or business form to which such limited partnership has converted, and may be
18 enforced against it to the same extent as if said debts, liabilities, and duties had originally been
19 incurred or contracted by it in its capacity as such other entity or business form. The rights,
20 privileges, powers, and interests in property of the limited partnership that has converted, as well
21 as the debts, liabilities and duties of such limited partnership, shall not be deemed, as a
22 consequence of the conversion, to have been transferred to the other entity or business form to
23 which such limited partnership has converted for any purpose of the laws of the state of Rhode
24 Island.

25 **7-13-10. Cancellation of certificate.**

26 A certificate of limited partnership is cancelled upon the dissolution and the
27 commencement of winding up of the partnership or at any other time there are no limited
28 partners, or upon the conversion of a limited partnership to a limited liability company. When all
29 fees and taxes have been paid to the tax administrator, as evidenced by ~~an appropriate certificate~~
30 ~~of good standing issued by the Rhode Island division of taxation~~ [a certified public accountant](#)
31 [\(CPA\) certifying, in writing, that no outstanding taxes and/or fees are due to the Rhode Island](#)
32 [division of taxation](#), a certificate of cancellation shall be filed in the office of the secretary of state
33 and state:

- 34 (1) The name of the limited partnership;

1 (2) The date of filing of its certificate of limited partnership or certificate of conversion
2 from a limited partnership to a limited liability company, as the case may be;

3 (3) The reason for filing the certificate of cancellation;

4 (4) The effective date (which shall be a date certain) of cancellation if it is not to be
5 effective upon the filing of the certificate; and

6 (5) Any other information the general partners filing the certificate determine.

7 SECTION 3. Section 7-16-5.2 of the General Laws in Chapter 7-16 entitled "The Rhode
8 Island Limited Liability Company Act" is hereby amended to read as follows:

9 **7-16-5.2. Approval of conversion of a limited liability company.**

10 (a) A domestic limited liability company may convert to a corporation, a business trust,
11 or association, a real estate investment trust, a common law trust, a sole proprietorship, or any
12 other unincorporated business or entity including a partnership, (whether general or limited,
13 including a registered limited liability partnership), or a foreign limited liability company upon
14 the authorization of the conversion in accordance with this section.

15 (b) If the limited liability company agreement specified the manner of authorizing a
16 conversion of the limited liability company, the conversion shall be authorized as specified in the
17 limited liability company agreement. If the limited liability company agreement does not specify
18 the manner of authorizing a conversion of the limited liability company and does not prohibit a
19 conversion of the limited liability company, the conversion shall be authorized in the same
20 manner as is specified in the limited liability company agreement for authorizing a merger or
21 consolidation that involves the limited liability company as a constituent party to the merger or
22 consolidation. If the limited liability company agreement does not specify the manner of
23 authorizing a conversion of the limited liability company or a merger or consolidate that involves
24 the limited liability company as a constituent party and does not prohibit a conversion of the
25 limited liability company, the conversion shall be authorized by the approval by the members or,
26 if there is more than one class or group of members, then by each class or group of members, in
27 either case, by members who own more than fifty percent (50%) of the then-current percentage or
28 other interest in the profits of the domestic limited liability company owned by all of the members
29 or by the members in each class or group, as appropriate.

30 (c) Unless otherwise agreed, the conversion of a domestic limited liability company to
31 another entity or business form pursuant to this section shall not require such limited liability
32 company to wind up its affairs under § 7-16-45 or pay its liabilities and distribute its assets under
33 § 7-16-46, and the conversion shall not constitute a dissolution of such limited liability company.
34 When a limited liability company has converted to another entity or business form pursuant to

1 this section, for all purposes of the laws of the state of Rhode Island, the other entity or business
2 form shall be deemed to be the same entity as the converting limited liability company and
3 conversion shall constitute a continuation of the existence of the limited liability company in the
4 form of such other entity or business form.

5 (d) In connection with a conversion of a domestic limited liability company to another
6 entity or business form pursuant to this section, rights or securities of or interests in the domestic
7 limited liability company that is to be converted may be exchanged for or converted into cash,
8 property, rights or securities of or interests in the entity or business form into which the domestic
9 limited liability company is being converted or, in addition to or in lieu thereof, may be
10 exchanged for or converted into cash, property, rights or securities of or interests in another entity
11 or business form or may be cancelled.

12 (e) If a limited liability company shall convert in accordance with this section to another
13 entity or business form organized, formed, or created under the laws of a jurisdiction other than
14 the state of Rhode Island or to a Rhode Island unincorporated "other entity", a certificate of
15 conversion to non-Rhode Island entity shall be filed in the office of the secretary of state. The
16 certificate of conversion to non-Rhode Island entity shall state:

17 (1) The name of the limited liability company and, if it has been changed, the name under
18 which its certificate of formation was originally filed;

19 (2) The date of filing of its original certificate of formation with the secretary of state;

20 (3) The jurisdiction in which the entity or business form, to which the limited liability
21 company shall be converted, is organized, formed, or created, and the name and type of such
22 entity or business form;

23 (4) The future effective date or time (which shall be a date or time certain) of the
24 conversion if it is not to be effective upon the filing of the certificate of conversion to non-Rhode
25 Island entity;

26 (5) That the conversion has been approved in accordance with this section;

27 (6) The agreement of the limited liability company that it may be served with process in
28 the state of Rhode Island in any action, suit, or proceeding for enforcement of any obligation to
29 the limited liability company arising while it was a limited liability company of the state of Rhode
30 Island, and that it irrevocably appoints the secretary of state as its agent to accept service of
31 process in any such action, suit, or proceeding;

32 (f) Upon the filing in the office of the secretary of state of the certificate of conversion to
33 non-Rhode Island entity or upon the future effective date or time of the certificate of conversion
34 to non-Rhode Island entity and upon payment of all fees due by the limited liability company, as

1 evidenced by ~~an appropriate certificate of good standing issued by the Rhode Island division of~~
2 ~~taxation~~ a certified public accountant (CPA) certifying, in writing, that no outstanding taxes
3 and/or fees are due to the Rhode Island division of taxation, the secretary of state shall certify that
4 the limited liability company has filed all documents and paid all fees required by this chapter,
5 and thereupon the limited liability company shall cease to exist as a limited liability company of
6 the state of Rhode Island. Such certificate of the secretary of state shall be prima facie evidence of
7 the conversion by such limited liability company out of the state of Rhode Island.

8 (g) The conversion of a limited liability company out of the state of Rhode Island in
9 accordance with this section and the resulting cessation of its existence as a limited liability
10 company of the state of Rhode Island pursuant to a certificate of conversion to non-Rhode Island
11 entity shall not be deemed to affect any obligations or liabilities of the limited liability company
12 incurred prior to such conversion or the personal liability of any person incurred prior to such
13 conversion, nor shall it be deemed to affect the choice of laws applicable to the limited liability
14 company with respect to matters arising prior to such conversion.

15 (h) When a limited liability company has been converted to another entity or business
16 form pursuant to this section, the other entity or business form shall, for all purposes of the laws
17 of the state of Rhode Island, be deemed to be the same entity as the limited liability company.
18 When any conversion shall have become effective under this section, for all purposes of the laws
19 of the state of Rhode Island, all of the rights, privileges, and powers of the limited liability
20 company that has converted, and all property, real, personal, and mixed, and all such debts due to
21 such limited liability company, as well as all other things and causes of action belonging to such
22 limited liability company, shall remain vested in the other entity or business form to which such
23 limited liability company has converted and shall be the property of such other entity or business
24 form, and the title to any real property vested by deed or otherwise in such limited liability
25 company shall not revert to such limited liability company or be in any way impaired by reason
26 of this chapter; but all rights of creditors and all liens upon any property of such limited liability
27 company shall be preserved unimpaired, and all debts, liabilities, and duties of the limited
28 liability company that has converted shall remain attached to the other entity or business form to
29 which such limited liability company has converted, and may be enforced against it to the same
30 extent as if said debts, liabilities, and duties had originally been incurred or contracted by it in its
31 capacity as such other entity or business form. The rights, privileges, powers, and interests in
32 property of the limited liability company that has converted, as well as the debts, liabilities, and
33 duties of such limited liability company, shall not be deemed, as a consequence of the conversion,
34 to have been transferred to the other entity or business form to which such limited liability

1 company has converted for any purpose of the laws of the state of Rhode Island.

2 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CORPORATIONS, ASSOCIATIONS, AND PARTNERSHIPS -- RHODE
ISLAND BUSINESS CORPORATION ACT

1 This act would substitute a certification of a certified public accountant (CPA) that a
2 corporation, limited partnership or limited liability company owes no taxes or fees to the division
3 of taxation in place of the need to obtain a certificate of good standing from the division for
4 conversions, dissolutions, withdrawals, or cancellations.

5 This act would take effect upon passage.

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