

LAWS
OF THE
STATE OF DELAWARE

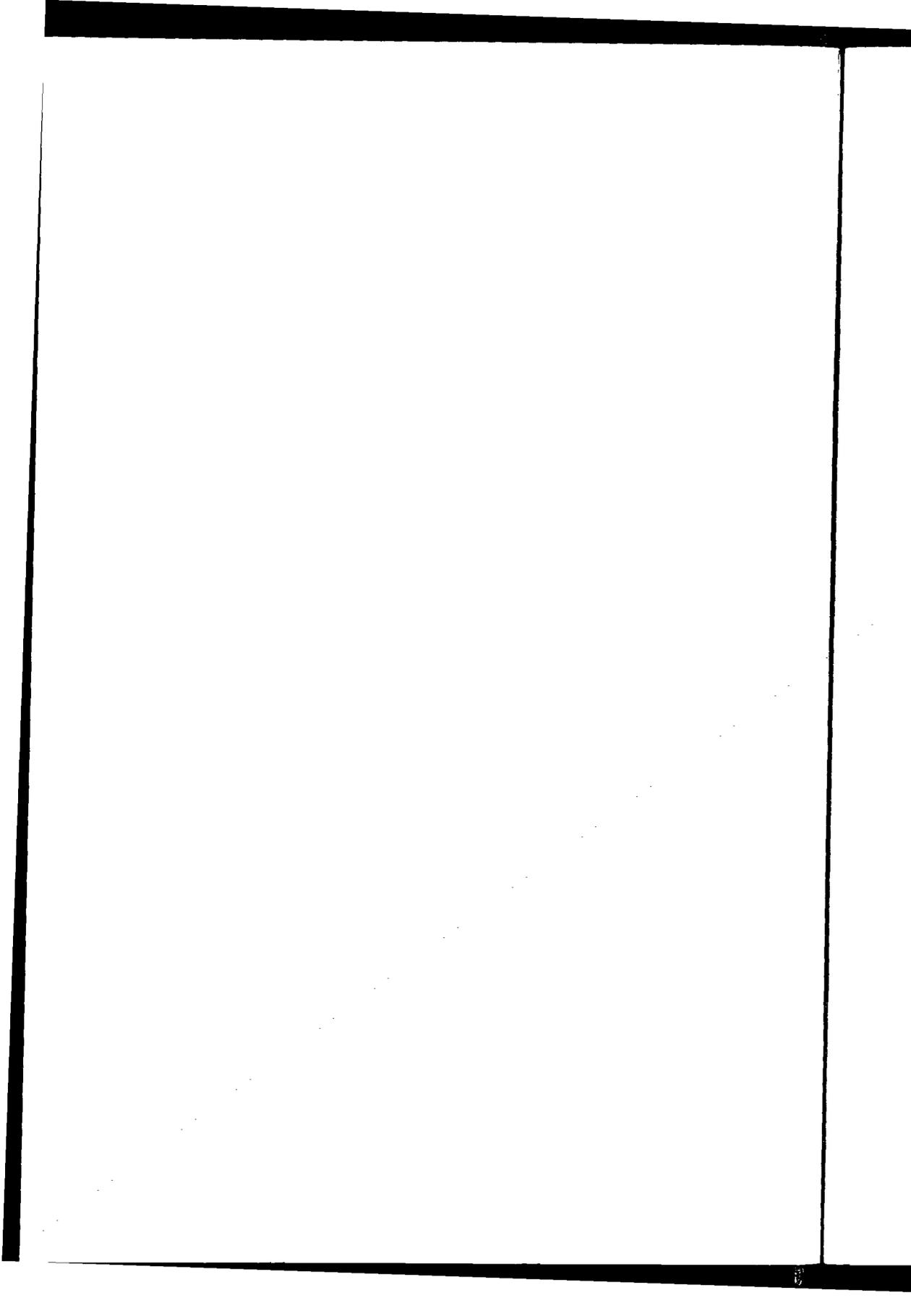
ONE HUNDRED AND THIRTY-EIGHT
GENERAL ASSEMBLY
FIRST SESSION COMMENCED AND HELD AT DOVER

On Tuesday, January 10, A.D.
1995

SECOND SESSION COMMENCED AND HELD AT DOVER

On Tuesday, January 9, A.D.
1996

VOLUME LXX
Part II



CHAPTER 342

FORMERLY

HOUSE BILL NO. 435
AS AMENDED BY HOUSE AMENDMENT NOS. 1 & 2 AND
SENATE AMENDMENT NO. 2

AN ACT TO AMEND SUBCHAPTER IIIA OF CHAPTER 41, TITLE 21, DELAWARE
CODE RELATING TO CONTROLLED-ACCESS HIGHWAYS.

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

Section 1. Amend §4127, Title 21, Delaware Code, by striking the words in the title
"Unlawful Evasion of Delaware Turnpike Tolls" and substituting in lieu thereof the words:
"Unlawful Evasion of Delaware Turnpike and The Korean War Veterans Memorial Highway;
Harassment of Toll Collectors."

Section 2. Amend §4127(b), Title 21, Delaware Code, by striking the second sentence
commencing with the words "Any violation" and ending with the words "5 days or both" and
substituting in lieu thereof the following:

"Any such violation regarding the payment of tolls shall be punishable by a fine
of not less than \$25 nor more than \$100, or imprisonment for not less than 10 nor more
than 30 days, or both."

Section 3. Amend §4127, Title 21, Delaware Code by adding thereto a new subsection
(g) to read as follows:

"(g) If any vehicle is witnessed by a police officer, toll collector, video
surveillance device, to be in violation of subsection (b) of §4127, and the identity of the
operator is not otherwise apparent, it shall be a rebuttable presumption that the person in
whose name the vehicle is registered committed such violation of subsection (b) §4127."

Section 4. Amend §4127, Title 21, Delaware Code, by adding thereto a new subsection
(h) to read as follows:

"(h) Any person who commits an act of offensive touching, presents payment in
the form of an obviously unsanitary piece of U.S. currency, or who commits any act
knowing that one is thereby likely to cause offense or alarm to an on duty toll collector,
will be guilty of an unclassified misdemeanor."

Approved May 23, 1996

CHAPTER 343

FORMERLY

HOUSE BILL NO. 406
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2 AND
SENATE AMENDMENT NOS. 1 & 2AN ACT TO AMEND CHAPTER 5, TITLE 11 OF THE DELAWARE CODE RELATING TO
CRIMES.

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

Section 1. Amend §1441, Chapter 5, Title 11 of the Delaware Code by striking subsection (h) of said section, and substituting in lieu thereof the following:

“(h) Notwithstanding any provision to the contrary, anyone retired as a police officer, as “police officer” is defined by §1911 of this Title, who is retired after having served at least 20 years in any law enforcement agency within this State, or who is retired and remains currently eligible for a duty-connected disability pension, may be licensed to carry a concealed deadly weapon for the protection of his or her person or property after his or her retirement, if the following conditions are strictly complied with:

(1) If he or she applies for the license within 90 days of the date of his or her retirement, he or she shall pay a fee of \$34.50 to the Prothonotary in the county where he or she resides and present to the Prothonotary both:

(i) a certification from the Attorney General’s office, in a form prescribed by the Attorney General’s office, verifying that the retired officer is in good standing with the law enforcement agency from which he or she is retired; and

(ii) a letter from the Chief of the retired officer’s agency verifying that the retired officer is in good standing with the law enforcement agency from which he or she is retired; or

(2) If he or she applies for the license more than 90 days, but within 20 years, of the date of his or her retirement, he or she shall pay a fee of \$34.50 to the Prothonotary in the county where he or she resides and present to the Prothonotary certification forms from the Attorney General’s office, or in a form prescribed by the Attorney General’s office, that:

(i) the retired officer is in good standing with the law enforcement agency from which he or she is retired;

(ii) the retired officer’s criminal record has been reviewed and that he or she has not been convicted of any crime greater than a violation since the date of his or her retirement; and

(iii) the retired officer has not been committed to a psychiatric facility since the date of his or her retirement.”

Approved May 23, 1996

CHAPTER 344

FORMERLY

HOUSE BILL NO. 434

AN ACT TO AMEND CHAPTER 5, TITLE 11 OF THE DELAWARE CODE RELATING TO THE CRIME OF RECKLESS BURNING OR EXPLODING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §804, Chapter 5, Title 11 of the Delaware Code by designating the first paragraph of said section as new subsection (a), and by striking the second paragraph of said section in its entirety.

Section 2. Amend §804, Chapter 5, Title 11 of the Delaware Code by adding thereto a new subsection, designated as subsection (b), which new subsection shall read as follows:

“(b) Reckless burning or exploding shall be punished as follows:

(1) Where the total amount of pecuniary loss caused by the burning or exploding, when totaled for all victims, is less than fifteen hundred dollars (\$1,500), such burning or exploding shall be a Class A misdemeanor.

(2) Where the total amount of pecuniary loss caused by the burning or exploding, when totaled for all victims, is fifteen hundred dollars (\$1,500) or more, such burning or exploding shall be a Class G felony.”

Approved May 23, 1996

CHAPTER 345

FORMERLY

SENATE BILL NO. 294

AN ACT TO AMEND AN ACT BEING CHAPTER 504, VOLUME 57, LAWS OF DELAWARE, AS AMENDED, ENTITLED “AN ACT TO INCORPORATE THE TOWN OF HENLOPEN ACRES” TO CLARIFY LONG-TERM BORROWING POWER.

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

Section 1. Subsection (a), Section 32, of Chapter 504, Volume 57, Laws of Delaware, as amended, entitled “An Act to Incorporate the Town of Henlopen Acres” be and the same is hereby amended by striking Subsection (a), Section 32, in its entirety and substituting in lieu thereof the following:

“Section 32.(a) In addition to other borrowing powers granted to the Town under this Charter or by State law, the Commissioners shall have authority to borrow money for any proper municipal purpose through the issuance of bonds or other evidence of indebtedness to secure the repayment thereof, on the full faith and credit of the Town, or such other security or securities as the Commissioners shall elect, for the payment of principal thereof and interest due thereon.”

Section 2. Subsection (c), Section 32, be and the same is hereby amended by adding a new Paragraph 7. to said subsection as follows:

“7. Paying all expenses deemed necessary by the Commissioners for the issuance of said bonds or other evidence of indebtedness, including bond discount and legal expenses of bond counsel.”

Approved May 23, 1996

CHAPTER 346

FORMERLY

SENATE BILL NO. 295

AN ACT TO AMEND AN ACT BEING CHAPTER 504, VOLUME 57, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO INCORPORATE THE TOWN OF HENLOPEN ACRES" TO CHANGE THE TITLE OF THE TOWN CLERK TO TOWN MANAGER.

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

Section 1. Amend Chapter 504, Volume 57, Laws of Delaware, as amended, entitled "An Act to Incorporate the Town of Henlopen Acres" by striking the word "Clerk" as it appears in Subsection (a) of Section 9; Subsections (a), (b), and (c) of Section 15; Subsection (1) of Section 16; Subsection (b) of Section 21; Subsection (g) of Section 21A; Subsection (e) of Section 22; Subsection (a), (c), (d) and (e) of Section 23; Subsection (a) and (b) of Section 24; Subsection (b) of Section 25; Subsections (a) and (b) of Section 27; Subsections (a), (b) and (c) of Section 28; and Paragraph 7, Subsection (a) of Section 34 thereof and substituting in lieu thereof the word "Manager".

Section 2. Amend the title prior to Section 15, Chapter 504, Volume 57, Laws of Delaware, as amended by striking the word "CLERK" as it appears therein and substituting in lieu thereof the word "MANAGER".

Approved May 23, 1996

CHAPTER 347

FORMERLY

SENATE BILL NO. 296
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND AN ACT BEING CHAPTER 504, VOLUME 57, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO INCORPORATE THE TOWN OF HENLOPEN ACRES" TO PROVIDE ALTERNATIVE METHODS FOR COLLECTION OF UNPAID TAXES, FEES AND OTHER CHARGES.

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

Section 1. Amend Subsection (b) of Section 24, Chapter 504, Volume 57, Laws of Delaware, As Amended, by striking said Subsection (b) in its entirety and substituting the following in lieu thereof:

(b) The Mayor or the Town Manager, when any tax becomes delinquent, may, in the name of the Town of Henlopen Acres, institute suit before any Justice of the Peace or in the Court of Common Pleas of the State of Delaware, in and for Sussex County, or in the Superior Court of the State of Delaware, in and for Sussex County, for the recovery of the unpaid tax in an action of debt, and upon judgment obtained, may sue out writs of execution as in case of other judgments recovered before a Justice of the Peace or in the Court of Common Pleas, or in the Superior Court, as the case may be.

Section 2. Amend Subsection (c) of Section 24, Chapter 504, Volume 57, Laws of Delaware, As Amended, by striking said Subsection (c) in its entirety and substituting the following in lieu thereof:

"(c) Should the Mayor or Town Manager so elect, he is empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of the delinquent taxpayer alienated subsequent to the levy of the tax by the direction of the Town Commissioners using any of those procedures specified for the sale of land for the collection of taxes on the part of the individuals charged with the responsibility for the collection of taxes for Sussex County, and all such procedures and methods available for the sale of land, as aforesaid, as they are presently enacted and hereafter amended, are included herein and made a part hereof by reference thereto, including the method of sale by monition, as the same is set forth in the statutes made and provided, substituting the Town of Henlopen Acres for Sussex County therein."

Section 3. Amend Section 24, Chapter 504, Volume 57, Laws of Delaware, As Amended, by adding a new Subsection (d) to read as follows:

"(d) All taxes imposed by the Town shall be and constitute a lien for a period of ten (10) years from date so levied upon the real property against which such charges are imposed. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any charges so levied. Such lien shall have preference and priority to all other prior liens on such real property, although such lien or liens be of a time and date prior to the time of attaching of such lien for taxes."

Approved May 23, 1996

CHAPTER 348

FORMERLY

SENATE BILL NO. 313

AN ACT TO AMEND CHAPTER 237, VOLUME 51, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF BRIDGEVILLE" RELATING TO INCREASING THE POWER TO RAISE REVENUE.

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

Section 1. AMEND Section 27, Chapter 237, Volume 51, Laws of Delaware, as amended, by striking the figure "\$100,000.00" as the same appears in the first sentence of the said section and by substituting the figure "\$200,000.00".

Approved May 23, 1996

CHAPTER 349

FORMERLY

SENATE BILL NO. 363

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

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

Section 1. Amend Section 103(d), Title 8, Delaware Code, by deleting the last sentence thereof and substituting the following sentence: "If any instrument filed in accordance with subsection (e) of this section provides for a future effective date or time and if the transaction is terminated or its terms are amended to change the future effective date or time prior to the future effective date or time, the instrument shall be terminated or amended by the filing, prior to the future effective date or time set forth in such instrument, of a certificate of termination or amendment of the original instrument, executed in accordance with subsection (a) of this section, which shall identify the instrument which has been terminated or amended and shall state that the instrument has been terminated or the manner in which it has been amended."

Section 2. Amend Section 141(c), Title 8, Delaware Code, by denominating the current text thereof as subsection "(1)" of such section; by adding the following two sentences as the first two sentences of such section: "All corporations incorporated prior to July 1, 1996, shall be governed by subsection (1) of this section, provided that any such corporation may by a resolution adopted by a majority of the whole board elect to be governed by subsection (2) of this section, in which case subsection (1) of this section shall not apply to such corporation. All corporations incorporated on or after July 1, 1996, shall be governed by subsection (2) of this section."; and by adding the following as subsection (2) of such section: "(2) The board of directors may designate 1 or more committees, each committee to consist of 1 or more of the directors of the corporation. The board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. The bylaws may provide that in the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the board of directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the board of directors, or in the bylaws of the corporation, shall have and may exercise all the powers and authority of the board of directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to the following matters: (i) approving or adopting, or recommending to the stockholders, any action or matter expressly required by this chapter to be submitted to stockholders for approval or (ii) adopting, amending or repealing any bylaw of the corporation."

Section 3. Amend Section 160(a)(1), Title 8, Delaware Code, by adding after the words "class or series of its stock" appearing in the first sentence the phrase ", or, if no shares entitled to such a preference are outstanding, any of its own shares."

Section 4. Amend Section 228(d), Title 8, Delaware Code, by adding the following words at the end of the first sentence: "and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for such meeting had been the date that written consents signed by a sufficient number of holders or members to take the action were delivered to the corporation as provided in subsection (c) of this section"; and by deleting the following phrase from the end of the subsection: ", and that written notice has been given as provided in this section".

Section 5. Amend Section 242(a), Title 8, Delaware Code, by adding the words ", subdivision, combination" immediately following the word "reclassification" in the two places where such word appears in Section 242(a).

Section 6. Amend Section 242(a)(3), Title 8, Delaware Code, by inserting immediately before "; or" at the end of such section the following: ", or by subdividing or combining the outstanding shares of any class or series of a class of shares into a greater or lesser number of outstanding shares".

Section 7. Amend Section 242(c), Title 8, Delaware Code, by adding the words "the effectiveness of" immediately following the words "prior to".

Section 8. Amend Section 251(b), Title 8, Delaware Code, by adding the following sentence at the end thereof: "The term 'facts,' as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation."

Section 9. Amend Section 252(b), Title 8, Delaware Code, by adding the following sentence at the end thereof: "The term 'facts,' as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation."

Section 10. Amend Section 253(a), Title 8, Delaware Code, by inserting the following immediately after the first sentence of subsection 253(a): "Any of the terms of the resolution of the board of directors to so merge may be made dependent upon facts ascertainable outside of such resolution, provided that the manner in which such facts shall operate upon the terms of the resolution is clearly and expressly set forth in the resolution. The term 'facts,' as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation."

Section 11. Amend Section 254(c), Title 8, Delaware Code, by adding the following sentence at the end thereof: "The term 'facts,' as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation."

Section 12. Amend Section 255(b), Title 8, Delaware Code, by adding the following sentence at the end thereof: "The term 'facts,' as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation."

Section 13. Amend Section 256(b), Title 8, Delaware Code by adding the following sentence at the end thereof: "The term 'facts,' as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation."

Section 14. Amend Section 257(b), Title 8, Delaware Code, by adding the following sentence at the end thereof: "The term 'facts,' as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation."

Section 15. Amend Section 263(b), Title 8, Delaware Code, by adding the following sentence at the end thereof: "The term 'facts,' as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation."

Section 16. Amend Section 264(b), Title 8, Delaware Code, by adding the following sentence at the end thereof: "The term 'facts,' as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation."

Section 17. Amend Section 251(c)(6), Title 8, Delaware Code, by deleting the words "the principal place of business" and inserting in lieu thereof the words "an office".