WEST VIRGINIA CODE: §31E-10-1003

§31E-10-1003. Amendment by board of directors and members.

(a) A corporation's board of directors may propose one or more amendments to the articles of incorporation for submission to those members who are entitled to vote on amendments, if any.

(b) For the amendment to be adopted: (1) The board of directors must approve the amendment; (2) the board of directors must recommend the amendment to the members entitled to vote on the amendment, if any, unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the members entitled to vote on the amendment with the submission of the amendment; and (3) the members entitled to vote on the amendment must approve the amendment, either before or after the actions required in subdivisions (1) and (2) of this subsection, as provided in subsection (e) of this section.

(c) The board of directors may condition its submission of the proposed amendment on any basis.

(d) The corporation shall notify each member entitled to vote on the amendment, if any, of the proposed meeting of members in accordance with section seven hundred five, article seven of this chapter. The notice of meeting must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment and contain or be accompanied by a copy or summary of the amendment.

(e) Unless this chapter, the articles of incorporation or the board of directors acting pursuant to subsection (c) of this section requires a greater vote or a vote by class of members, the amendment to be adopted must be approved by: (1) If no class of members is entitled to vote separately on the amendment as a class, at least two thirds of the votes cast by the members entitled to vote on the amendment; and (2) if any class of members is entitled to vote on the amendment separately as a class, at least two thirds of the votes cast by the members of each class.

(f) If the corporation has no members, or no members entitled to vote, the proposed amendment must be adopted by vote of at least two thirds of the directors present at a meeting of the board of directors at which a quorum is present.

WV Legislature