WEST VIRGINIA CODE CHAPTER 47 ARTICLE 9A

WV Legislature

§47-9A-1. Right to acquire and dispose of property; execution of deeds and other writings.

Any persons who are now or who have heretofore been voluntarily associated together for the transaction or doing of business under and pursuant to the terms and provisions of a declaration of trust or articles or agreement of association, commonly designated as a Massachusetts trust or business trust, or any other lawful voluntary association by whatever name known, may purchase, acquire, hold, deal in, sell, lease, convey, exchange, pledge, mortgage and encumber any real estate or personal property or interest therein within this state, and may execute all deeds, leases, contracts, or other instruments in writing with respect to real estate or personal property or interest therein as may be necessary or required, either in the name or names of the trustees for the time being designated in such declaration, articles or agreement, or their successors, or in the name or names of another person or persons designated in such declaration, articles or agreement, or by a descriptive, assumed or trade name, when signed by a duly authorized officer or officers thereof, all as may be provided for and stated in such declaration, articles or agreement: Provided, That such association or trust shall have qualified to do business in West Virginia, as hereinafter provided for in sections two and three of this article.

WV Legislature

§47-9A-2. Application for registration of business trust; issuance of certificate of business trust.

(a) For the purposes of this article, a "business trust" is any trust organized for the purpose of conducting business and commonly designated as a Massachusetts trust.

(b) Any business trust organized in this state shall file with the Secretary of State: (1) One executed original copy of an application for registration; and (2) one executed original copy of the declaration, articles or agreement of trust creating the business trust.

(c) Any business trust organized outside this state and operating within this state shall file with the Secretary of State: (1) One executed original copy of an application for registration; (2) one executed original copy of the declaration, articles or agreement of trust creating the business trust as recorded in the state or country of origin of the business trust; and (3) a statement or certificate from the proper officer of the state or country of origin that the business trust is in good standing.

(d) An application for registration shall set forth:

(1) The name of the business trust;

(2) If organized within the state, a statement that it is a West Virginia business trust, or if organized outside the state, the state in which it was organized and the formation date of the business trust;

(3) The purpose or purposes for which the business trust is organized;

(4) The address of its principal office;

(5) The name and address of the person to whom notice of process may be sent, if any;

(6) The names and addresses of all trustees having authority to act on behalf of the business trust;

(7) A statement reflecting the business trust's consent to and recognition of the application to the business trust of the law of this state with respect to corporations; and

(8) An e-mail address where informational notices and reminders of annual filings may be sent, unless there is a technical inability to comply.

(e) An application for registration may contain the notarized signature of a trustee of the business trust.

(f) If the Secretary of State determines that an application for registration has been properly filed in complete form and that the fee prescribed in section two, article one, chapter fifty-nine of this code has been paid, he or she shall file it and deliver to the business trust or its

WV Legislature

representative a receipt for the record and the fees.

WV Legislature

§47-9A-3. Filing of voluntary association; issuance of certificate of voluntary association.

(a) For purposes of this article, a "voluntary association" is any association organized for the purpose of conducting business in this state, but does not include an organization formed as an unincorporated nonprofit association under the provisions of article eleven, chapter thirty-six of this code.

(b) Any voluntary association organized in this state shall file with the Secretary of State: (1) One executed original copy of an application for registration; and (2) one executed original copy of the agreement of association creating the voluntary association (if such an agreement exists apart from the application for registration itself).

(c) Any voluntary association organized outside this state and operating within this state shall file with the Secretary of State: (1) One executed original copy of an application for registration; (2) one executed original copy of the agreement of association creating the voluntary association; and (3) a statement or certificate from the proper officer of the state or country of origin that the voluntary association is in good standing.

(d) An application for registration shall set forth:

(1) The name of the voluntary association;

(2) The principal office address of the voluntary association;

(3) The mailing address of the voluntary association, if different from the principal office address;

(4) The name and address of the person to whom notice of process may be sent, if any;

(5) Whether the voluntary association is organized for profit or as a nonprofit voluntary association;

(6) The purpose or purposes for which the voluntary association is formed;

(7) The full names and addresses of one or more of the organizers of the voluntary association;

(8) The full names and addresses of no fewer than two officers, owners or members of the voluntary association who have signatory authority for the association;

(9) Any additional statements as may be required for the type of business to be conducted;

(10) A statement reflecting the voluntary association's consent to and recognition of the application of the law of this state with respect to corporations to the voluntary association; and

WV Legislature

(11) An e-mail address where informational notices and reminders of annual filings may be sent, unless there is a technical inability to comply.

(e) An application for registration may contain the notarized signature of at least one organizer or member of the voluntary association.

(f) If the Secretary of State determines that an application for registration has been properly filed in complete form and that the fee prescribed in section two, article one, chapter fifty-nine of this code has been paid, he or she shall file it and deliver to the voluntary association or its representative a receipt for the record and the fees.

WV Legislature

§47-9A-4. Application of laws relating to corporations; name of business trust or voluntary association; adoption and use of trade name and seal; amendment of declaration, articles or agreement; change of agent for service of process, trustees, and members; dissolution; filing.

(a) Unless otherwise specifically provided in this article, any business trust or voluntary association conducting business in this state is subject to the laws of this state with respect to corporations, including laws relating to license fees and all other taxes, to the extent such laws are applicable.

(b) The name of any business trust or voluntary association applying for registration shall meet the requirements for corporate names set forth in section four hundred one, article four, chapter thirty-one-d or section four hundred one, chapter thirty-one-e of this code, except that the name shall not contain the words "incorporated," "corporation," "limited," or any abbreviation of these terms.

(c) Any business trust or voluntary association may use a trade name upon complying with the provisions of section four, article eight, chapter forty-seven of this code. Any business trust or voluntary association may adopt and use a common seal.

(d) Upon the adoption of an amendment to the declaration, articles or agreement of trust of a business trust or the agreement of association of a voluntary association, the business trust or voluntary association shall file one executed original copy of the amendment, and may contain the notarized signature of at least one trustee of the business trust or at least one organizer or member of the voluntary association, with the office of the Secretary of State.

(e) Upon any change of trustees, organizers, members or other persons previously recorded as having authority to act on behalf of the business trust or voluntary association, or upon any change of the agent of the business trust or voluntary association for service of process, a business trust or voluntary association shall file notice of the change with the Secretary of State.

(f) Upon the determination of the majority of trustees of a business trust or a majority of members of a voluntary association that the business trust or voluntary association shall be dissolved; and after all debts, liabilities and obligations of the business trust or voluntary association have been paid and discharged, the business trust or voluntary association shall distribute all of the remaining assets of the business trust or voluntary association and file articles of dissolution with the Secretary of State in the manner provided for corporations in section one thousand four hundred three, article fourteen, chapter thirty-one-d, or section one thousand three hundred three, article thirteen, chapter thirty-one-e of this code. Upon verification by the appropriate state agencies that the business trust or voluntary association has paid all taxes, assessments and fees due to the state, the Secretary of State shall file it and deliver to the voluntary association or business trust or its representative a receipt for the record and the fees.

WV Legislature

(g) A business trust or voluntary association organized outside the state and registered to do business within this state may withdraw from the state in the manner provided for corporations in section one thousand five hundred twenty, article fifteen, chapter thirty-one-d or section one thousand four hundred twenty, article fourteen, chapter thirty-one-e of this code.

(h) No document required to be filed by this section shall be filed with the Secretary of State unless the trustee of the business trust or the organizer or member of the voluntary association is currently authorized as such.

WV Legislature

§47-9A-5. Providing for use of trade names; acknowledgment of deeds and other writings.

Any declaration, articles or agreement of trust of a business trust and any agreement of association of a voluntary association which provides for the use of a trade name shall authorize and designate or shall contain provisions for the authorization or designation of persons by whom deeds, leases, contracts and other written instruments shall be executed. All such deeds, leases, contracts and other instruments in writing shall be deemed to be properly acknowledged for the purposes of recordation if acknowledged in the form provided by statute for acknowledgments by corporations, or, if executed by trustees or other persons, then in the form provided by statute therefor.

WV Legislature

§47-9A-6. Validation of deeds and other writings heretofore executed.

All such deeds, leases, contracts and other written instruments with respect to real or personal property or any interest therein within this state heretofore made and delivered by any business trust or voluntary association which comply with the requirements of this article are hereby expressly validated.

WV Legislature

§47-9A-7. Repeal of conflicting acts; severability.

All acts or parts of acts in conflict with this article are hereby repealed.

The provisions of this article shall be construed to be severable and if any are held unconstitutional or otherwise invalid, such invalidity or unconstitutionality shall not affect the operation of the remaining provisions.

WV Legislature