

§1
C.14A:13-6.1
Title 14A.
Chapter 11A.
(New)
Conversion.
§§2,3
C.14A:11A-1
and 14A:11A-2
§5
Note

P.L. 2023, CHAPTER 38, *approved May 8, 2023*
Senate, No. 142 (*First Reprint*)

1 AN ACT concerning certain corporations, amending N.J.S.14A:15-2,
2 and supplementing Title 14A of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. (New section) (1) Following a conversion under applicable
8 law of an other business entity, which was authorized to transact
9 business in this State, to a foreign corporation, the foreign
10 corporation shall file in the filing office, an application executed on
11 behalf of the corporation setting forth:

12 (a) the name of the corporation and the jurisdiction of its
13 incorporation;

14 (b) the name of the other business entity, which was authorized
15 to transact business in this State;

16 (c) the ten digit identification number;

17 (d) the date of the conversion of the other business entity to the
18 foreign corporation;

19 (e) the date of the authorization of the other business entity to
20 transact business in this State;

21 (f) the address of the main business or headquarters office of
22 the corporation;

23 (g) the address of the registered office of the corporation in this
24 State, and the name of its registered agent in this State at that
25 address, together with a statement that the registered agent is an
26 agent of the corporation upon whom process against the corporation
27 may be served; and

28 (h) the character of the business it is to transact in this State,
29 together with a statement that it is authorized to transact business in
30 the jurisdiction of its incorporation.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted October 20, 2022.

1 (2) Attached to the application shall be a certificate setting forth
2 that the corporation is in good standing under the laws of the
3 jurisdiction of its incorporation, executed by the official of that
4 jurisdiction who has custody of the records pertaining to
5 corporations and dated not earlier than 30 days prior to the filing of
6 the application, but of a date subsequent to the conversion. If that
7 certificate is in a foreign language, a translation thereof under oath
8 of the translator shall be attached thereto.

9 (3) Upon the filing of the application, the filing office shall
10 issue to the foreign corporation a certificate of authority to transact
11 business in this State.

12 (4) As used in this section, "filing office" means the Division of
13 Revenue and Enterprise Services in the Department of the Treasury,
14 or other State office as designated by law.

15

16 2. (New section) (1) As used in this section:

17 "Filing office" means the Division of Revenue and Enterprise
18 Services in the Department of the Treasury, or other State office as
19 designated by law.

20 "Other entity" means a partnership, limited liability company,
21 statutory trust, business trust or association, real estate investment
22 trust, common-law trust, national association, or any other
23 unincorporated business, not including a sole proprietorship,
24 whether organized under the laws of this State or under the laws of
25 any other state or territory of the United States or the District of
26 Columbia, the United States or any foreign country or other foreign
27 jurisdiction, or a foreign corporation.

28 (2) Any other entity may, upon the authorization of conversion
29 in accordance with this section, convert to a domestic corporation.

30 (3) Prior to filing a certificate of conversion to corporation with
31 the filing office, a plan of conversion shall be approved in the
32 manner provided for by the document, instrument, agreement or
33 other writing, as the case may be, governing the internal affairs of
34 the other entity and the conduct of its business and in accordance
35 with applicable law, as appropriate, and a certificate of
36 incorporation shall be approved by the same authorization required
37 to approve the conversion.

38 (4) Any other entity may convert to a domestic corporation by
39 complying with subsection (3) of this section and filing in the filing
40 office:

41 (a) A certificate of conversion to corporation that has been
42 executed in accordance with subsection (10) of this section and
43 filed in accordance with N.J.S.14A:1-6; and

44 (b) A certificate of incorporation that has been executed,
45 acknowledged and filed in accordance with N.J.S.14A:1-6.

46 (5) The certificate of conversion to corporation shall state:

47 (a) The date on which and jurisdiction where the other entity
48 was first created, incorporated, formed or otherwise came into being

1 and, if it has changed, its jurisdiction immediately prior to its
2 conversion to a domestic corporation;

3 (b) The name of the other entity immediately prior to the filing
4 of the certificate of conversion to corporation;

5 (c) The name of the corporation as set forth in its certificate of
6 incorporation filed in accordance with subsection (4) of this section;

7 (d) The future effective date or time, which shall be a date or
8 time certain, of the conversion if it is not to be effective upon the
9 filing of the certificate of conversion, which is not to exceed 90
10 days after the date of filing; and

11 (e) That the plan of conversion has been approved in the manner
12 provided for by the document, instrument, agreement or other
13 writing, as the case may be, governing the internal affairs of the
14 other entity and the conduct of its business and in accordance with
15 applicable law, as appropriate.

16 (6) Upon the effective time of the certificate of conversion to
17 corporation and the certificate of incorporation, the other entity
18 shall be converted to a domestic corporation and the corporation
19 shall thereafter be subject to all of the provisions of this title, except
20 that notwithstanding subsection (2) of N.J.S.14A:2-7, the existence
21 of the corporation shall be deemed to have commenced on the date
22 the other entity commenced its existence in the jurisdiction in which
23 the other entity was first created, formed, incorporated or otherwise
24 came into being.

25 (7) The conversion of any other entity to a domestic corporation
26 shall not be deemed to affect any obligations or liabilities of the
27 other entity incurred prior to its conversion to a domestic
28 corporation or the personal liability of any person incurred prior to
29 conversion.

30 (8) When any other entity has been converted to a domestic
31 corporation pursuant to this section, the domestic corporation shall,
32 for all purposes of the laws of the State of New Jersey, be deemed
33 to be the same entity as the converting other entity. When any
34 conversion shall have become effective under this section, for all
35 purposes of the laws of the State of New Jersey, all of the rights,
36 privileges and powers of the other entity that has converted, and all
37 property, real, personal and mixed, and all debts due to that other
38 entity, as well as all other things and causes of action belonging to
39 that other entity, shall remain vested in the domestic corporation to
40 which that other entity has converted and shall be the property of
41 that domestic corporation and the title to any real property vested
42 by deed or otherwise in that other entity shall not revert or be in any
43 way impaired by reason of this act; but all rights of creditors and all
44 liens upon any property of that other entity shall be preserved
45 unimpaired, and all debts, liabilities and duties of the other entity
46 that has converted shall remain attached to the domestic corporation
47 to which that other entity has converted, and may be enforced
48 against it to the same extent as if said debts, liabilities and duties

1 had originally been incurred or contracted by it in its capacity as a
2 domestic corporation. The rights, privileges, powers and interests
3 in property of the other entity, as well as the debts, liabilities and
4 duties of the other entity, shall not be deemed, as a consequence of
5 the conversion, to have been transferred to the domestic corporation
6 to which that other entity has converted for any purpose of the laws
7 of the State of New Jersey.

8 (9) Unless otherwise agreed for all purposes of the laws of the
9 State of New Jersey or as required under applicable non-New Jersey
10 law, the converting other entity shall not be required to wind up its
11 affairs or pay its liabilities and distribute its assets, and the
12 conversion shall not be deemed to constitute a dissolution of that
13 other entity and shall constitute a continuation of the existence of
14 the converting other entity in the form of a domestic corporation.

15 (10) The certificate of conversion to corporation shall be signed
16 by any person who is authorized to sign the certificate of
17 conversion to corporation on behalf of the other entity.

18 (11) In connection with a conversion hereunder, rights or
19 securities of, or interests in, the other entity which is to be
20 converted to a domestic corporation may be exchanged for or
21 converted into cash, property, or shares of stock, rights or securities
22 of that domestic corporation or, in addition to or in lieu thereof,
23 may be exchanged for or converted into cash, property, or shares of
24 stock, rights or securities of or interests in another domestic
25 corporation or other entity or may be cancelled.

26

27 3. (New section) (1) As used in this section:

28 “Filing office” means the Division of Revenue and Enterprise
29 Services in the Department of the Treasury, or other State office as
30 designated by law.

31 “Other entity” means a partnership, limited liability company,
32 statutory trust, business trust or association, real estate investment
33 trust, common-law trust, national association, or any other
34 unincorporated business, not including a sole proprietorship,
35 whether organized under the laws of this State or under the laws of
36 any other state or territory of the United States or the District of
37 Columbia, the United States or any foreign country or other foreign
38 jurisdiction, or a foreign corporation.

39 (2) A domestic corporation may, upon the authorization of
40 conversion in accordance with this section, convert to any other
41 entity.

42 (3) The board of directors of the corporation which desires to
43 convert under this section shall adopt a resolution approving a plan
44 of conversion, specifying the type of other entity into which the
45 corporation shall be converted and shall direct that the conversion
46 be submitted to a vote at a meeting of shareholders. Written notice
47 shall be given not less than 20 nor more than 60 days before that
48 meeting to each shareholder of record, whether or not entitled to

1 vote at that meeting, in the manner provided in the “New Jersey
2 Business Corporation Act” for the giving of notice of meetings of
3 shareholders. At each meeting, a vote of the shareholders shall be
4 taken on the proposed plan of conversion. The conversion shall be
5 approved upon receiving the affirmative vote of the holders of all
6 shares of outstanding stock, whether voting or nonvoting. The
7 conversion shall also be approved in the manner provided for by the
8 document, instrument, agreement or other writing, as the case may
9 be, governing the internal affairs of the other entity and the conduct
10 of its business and in accordance with applicable law, as
11 appropriate.

12 (4) ‘A domestic corporation that converts to any other entity
13 that will be domiciled in this State shall file with the filing office a
14 certificate of conversion that states:

15 (a) the name of the corporation, and if it wishes to change its
16 name, the proposed new name;

17 (b) the future effective date or time, which shall be a date or
18 time certain, of the conversion if it is not to be effective upon the
19 filing of the certificate of conversion, which is not to exceed 90
20 days after the date of filing; and

21 (c) that the conversion was adopted pursuant to the provisions
22 of subsection (3) of this section.

23 (5)¹ If a corporation shall convert in accordance with this section
24 to any other entity organized, formed or created under the laws of a
25 jurisdiction other than the State of New Jersey, the corporation shall
26 file with the filing office a certificate of conversion executed in
27 accordance with N.J.S.14A:1-6, which certifies:

28 (a) **‘[The] the¹** name of the corporation, and if it has been
29 changed, the name under which it was originally incorporated;

30 (b) **‘[The] the¹** date of filing of its original certificate of
31 incorporation with the filing office;

32 (c) **‘[The] the¹** name and jurisdiction of the other entity to
33 which the corporation shall be converted;

34 (d) **‘[That] that¹** the conversion has been approved in the
35 manner provided for by the document, instrument, agreement or
36 other writing, as the case may be, governing the internal affairs of
37 the other entity and the conduct of its business and in accordance
38 with applicable law, as appropriate; and

39 (e) **‘[The] the¹** future effective date or time, which shall be a
40 date or time certain, of the conversion if it is not to be effective
41 upon the filing of the certificate of conversion, which is not to
42 exceed 90 days after the date of filing.

43 (f) If the other entity is to transact business in this State, it shall
44 comply with the provisions of this act with respect to foreign
45 entities, and, whether or not it is to transact business in this State,
46 the certificate of conversion required by this section shall, in
47 addition to other required information, set forth:

1 (i) an agreement by that other entity that it may be served with
2 process in this State in any proceeding for the enforcement of any
3 obligation of the converting corporation; and

4 (ii) an irrevocable appointment by that other entity of the filing
5 office of this State as its agent to accept service of process in any
6 proceeding for the enforcement of any obligation of the converting
7 corporation, and the post office address, within or without this
8 State, to which the filing office shall mail a copy of the process in
9 that proceeding.

10 (g) In the event of service upon the filing office in accordance
11 with paragraph (f) of subsection ~~'[(4)] (5)'~~¹ of this section, the
12 filing office shall forthwith notify the corporation that has
13 converted out of the State of New Jersey by letter, directed to the
14 corporation that has converted out of the State of New Jersey at the
15 address so specified, unless that corporation shall have designated
16 in writing to the filing office a different address for that purpose, in
17 which case it shall be mailed to the last address designated. The
18 letter shall be sent by a mail or courier service ~~'[that includes]~~¹ ,
19 and the filing office shall maintain¹ a record of ~~'the'~~¹ mailing or
20 deposit with the courier ~~'[and a record of delivery evidenced by the~~¹
21 ~~signature of the recipient]'~~¹ . The letter shall enclose a copy of the
22 process and any other papers served on the filing office pursuant to
23 this subsection. It shall be the duty of the plaintiff to serve process
24 and any other papers in duplicate, to notify the filing office that
25 service is being effected pursuant to this subsection and to pay the
26 filing office the sum of \$75.00 for the use of the State, which sum
27 shall be taxed as part of the costs in the proceeding, if the plaintiff
28 shall prevail therein. The filing office shall maintain an
29 alphabetical record of any service, setting forth the name of the
30 plaintiff and the defendant, the title, docket number and nature of
31 the proceeding in which process has been served, the fact that
32 service has been effected pursuant to this subsection, the return date
33 thereof, and the day and hour service was made. The filing office
34 shall not be required to retain the information longer than five years
35 from receipt of the service of process.

36 ~~'[(5)] (6)'~~¹ Upon the filing in the filing office of a certificate of
37 conversion to a non-New Jersey entity in accordance with
38 subsection ~~'[(4)] (5)'~~¹ of this section or upon the future effective
39 date or time of the certification of conversion to a non-Jersey entity
40 and payment to the filing office of all fees prescribed under this
41 title, the filing office shall certify that the corporation has filed all
42 documents and paid all fees required by this title, and thereupon the
43 corporation shall cease to exist as a domestic corporation at the time
44 the certificate of conversion becomes effective in accordance with
45 N.J.S.14A:1-6. The certificate of the filing office shall be prima
46 facie evidence of the conversion by such corporation out of the
47 State of New Jersey.

1 ¹~~[(6)]~~ (7)¹ The conversion of a corporation out of the State of
2 New Jersey in accordance with this section and the resulting
3 cessation of its existence as a domestic corporation pursuant to a
4 certificate of conversion to a non-New Jersey entity shall not be
5 deemed to affect any obligations or liabilities of the corporation
6 incurred prior to conversion or the personal liability of any person
7 incurred prior to conversion, nor shall it be deemed to affect the
8 choice of law applicable to the corporation with respect to matters
9 arising prior to conversion.

10 ¹~~[(7)]~~ (8)¹ Unless otherwise provided in the plan of conversion
11 adopted in accordance with this section, the converting corporation
12 shall not be required to wind up its affairs or pay its liabilities and
13 distribute its assets, and the conversion shall not constitute a
14 dissolution of the corporation.

15 ¹~~[(8)]~~ (9)¹ In connection with a conversion of a domestic
16 corporation to an other entity pursuant to this section, shares of
17 stock of the domestic corporation which is to be converted may be
18 exchanged for or converted into cash, property rights or securities
19 of, or interest in, the other entity to which the domestic corporation
20 is being converted or, in addition to or in lieu thereof, may be
21 exchanged for or converted into cash, property, shares of stock,
22 rights or securities of, or interest in, another domestic corporation
23 or other entity or may be cancelled.

24 ¹~~[(9)]~~ (10)¹ When a corporation has been converted to the other
25 entity pursuant to this section, the other entity shall, for all purposes
26 of the laws of the State of New Jersey, be deemed to be the same
27 entity as the corporation. When any conversion shall have become
28 effective under this section, for all purposes of the laws of the State
29 of New Jersey, all of the rights, privileges and powers of the
30 corporation that has converted and all property, real, personal and
31 mixed, and all debts due to that corporation, as well as all other
32 things and causes of action belonging to that corporation, shall
33 remain vested in the other entity to which that corporation has
34 converted and shall be the property of that other entity, and the title
35 to any real property vested by deed or otherwise in that corporation
36 shall not revert or be in any way impaired by reason of this act; but
37 all rights of creditors and all liens upon any property of that
38 corporation shall be preserved unimpaired, and all debts, liabilities
39 and duties of the corporation that has converted shall remain
40 attached to the other entity to which that corporation has converted
41 and may be enforced against it to the same extent as if said debts,
42 liabilities and duties had originally been incurred or contracted by it
43 in its capacity as that other entity. The rights, privileges, powers
44 and interest in property of the corporation that has converted, as
45 well as the debts, liabilities and duties of that corporation, shall not
46 be deemed, as a consequence of the conversion, to have been
47 transferred to the other entity to which that corporation has
48 converted for any purpose of the laws of the State of New Jersey.

1 ~~[(10)]~~ (11)¹ No vote of shareholders of a corporation shall be
2 necessary to authorize a conversion if no shares of the stock of that
3 corporation shall have been issued prior to the adoption by the
4 board of directors of the resolution approving the conversion.

5

6 4. N.J.S.14A:15-2 is amended to read as follows:

7 14A:15-2. On filing any certificate or other papers relative to
8 corporations in the Department of the Treasury, there shall be paid
9 to the State Treasurer, filing fees as follows:

10 (1) Certificate of incorporation and amendments thereto:

11 (a) for filing the original certificate of incorporation..... \$125.00

12 (b) for filing a certificate of amendment of the certificate of
13 incorporation, including any number of amendments..... \$75.00

14 (c) for filing a certificate of abandonment of one or more
15 amendments of the certificate of incorporation..... \$75.00

16 (d) for filing a certificate of merger or a certificate of
17 consolidation..... \$75.00

18 (e) for filing a certificate of abandonment of a merger or
19 consolidation..... \$75.00

20 (2) Restated certificate of incorporation:

21 for filing a restated certificate of incorporation, including any
22 amendments of the certificate of incorporation concurrently
23 adopted..... \$75.00

24 (3) Dissolution of corporation:

25 (a) for filing a certificate of dissolution..... \$75.00

26 (b) for filing a certificate of revocation of dissolution
27 proceedings..... \$75.00

28 (4) Admission and withdrawal of foreign corporation:

29 (a) for filing an application for a certificate of authority to
30 transact business in this State and issuing a certificate of
31 authority..... \$125.00

32 (b) for filing an application for an amended certificate of
33 authority to transact business in this State and issuing an amended
34 certificate of authority..... \$75.00

35 (c) for filing an application for withdrawal from this State and
36 issuing a certificate of withdrawal..... \$75.00

37 (d) for filing a certificate of change of post-office address to
38 which process may be mailed by the State Treasurer..... \$25.00

39 (e) for filing a certificate, order or decree with respect to the
40 dissolution of a foreign corporation, the termination of its existence,
41 or the cancellation of its authority, and issuing a certificate of
42 withdrawal..... \$75.00

43 (5) Registered office and registered agent:

44 (a) for filing a certificate of change of address of registered
45 office, or change of registered agent, or both..... \$25.00

46 (b) (i) for filing a certificate of change of address of registered
47 agent, where such certificate effects a change in the address of the
48 registered office of one to 499 corporations or of 500 or more

1 corporations in cases where the filing information is not transmitted
2 to the State Treasurer in a machine readable format agreeable to the
3 Division of **【Commercial Recording】 Revenue and Enterprise**
4 Services, for each corporation named in the certificate..... \$25.00

5 (ii) for filing a certificate of change of address of registered
6 agent, where such certificate effects a change in the address of the
7 registered office of 500 or more corporations in cases where the
8 filing information is transmitted to the State Treasurer in a machine
9 readable format agreeable to the Division of **【Commercial**
10 **Recording】 Revenue and Enterprise Services**..... \$5,000.00

11 (iii) In addition to the fee imposed pursuant to subparagraph (ii)
12 of this paragraph, the State Treasurer may assess an additional fee
13 not to exceed those administrative costs associated with the
14 technical transmission of the filing information.

15 (c) for filing an affidavit of resignation of a registered agent.....
16 \$25.00

17 (6) Annual report:
18 for each such report required to be filed \$75.00

19 (7) Tax clearance certificate from the Director of the Division of
20 Taxation: for each such certificate required to be filed..... \$20.00

21 (8) for filing a certificate of conversion.....75.00
22 (cf: P.L.2019, c.149, s.3.)

23
24 5. This act shall take effect on the 180th day following
25 enactment.

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30 _____
31 Modernizes business filing statutes to include entity conversion
and domestication.