



10415 Southern Maryland Boulevard, Suite 200

Dunkirk, MD 20754

Telephone: (410) 286-8686

Fax: (410) 286-8689

www.TitleMaxLLC.com

Entity Document Requirements

Corporation

- A Corporation is an artificial person or legal entity created under the authority of the laws of a state, having a personality and existence distinct from that of its several members and vested within the capacity of continuous succession.
- See Title 2 of the Annotated Code of Maryland, Corporations and Associations Article.
- By statute, a Corporation has legal capacity to hold and deal in real property, consistent with the powers given in its charter or articles of incorporation.
- Documents to be reviewed:
 - Verify date of incorporation;
 - Articles of Incorporation;
 - Bylaws and any amendments thereto;
 - Certificate of Good Standing of recent date issued by the Secretary of State of the corporation's state of domicile;
 - Resolution of the Board of Directors authorizing the contemplated transaction, if any; and
 - The Incumbency Certificate identifying current officers and directors of the corporation.
- Who has the power to sign and bind the Corporation?
 - A duly appointed officer of the Corporation, provided such officer is authorized to execute the documents either pursuant to the Bylaws or a Corporate Resolution of the Board of Directors.
 - What is the effect of lack of authority? (See *Scotch Bonnet Realty Corp. v Cateania Matthews, et al*, 417 Md. 570 (2010) and *Robert George, et al v Clarence Jackson, et al*, Superior Court of District of Columbia Civil Division Docket No. 2013 CA 007115B (July 7, 2017) copy attached;
 - Effect of transfer after termination of corporate existence (Annotated Code of Maryland, Corporations and Associations Article, Sections 3-410, 3-512, 3-514, 3-515).

- Liens/judgements against officers, directors and stockholders do not attach to property owned by corporation. Liens/judgements against corporation attach to real estate owned by the corporation.
- Bankruptcy of corporation places corporation's real property under jurisdiction of Bankruptcy Court but bankruptcy of individual shareholders has no effect on corporation's real property.

Close Corporation

- A corporation whose shares or voting share are held by a single shareholder or group of shareholders.
- See Title 4 of the Annotated Code of Maryland, Corporations and Associations Article.
- Primary difference from a regular corporation – Optional Board of Directors.
- The documents to be reviewed:
 - Articles of Incorporation;
 - Unanimous Shareholders' Agreement and any amendments thereto;
 - Certificate of Good Standing of recent date issued by the Secretary of State of the corporations state of domicile;
 - Resolution of the Board of Directors/Shareholders authorizing the contemplated transaction, if any; and
 - The Incumbency Certificate.
- Who has the power to sign and bind the Close Corporation?
 - A duly appointed officer of the Corporation, provided such officer is authorized to execute the documents either pursuant to the Bylaws or a Corporate Resolution of the Board of Directors (if any) or Shareholders.

Limited Liability Company

- An unincorporated business created under the authority of the laws of the state of Maryland consisting of one or more individuals who may participate in the management of the limited liability company without incurring personal liability for the debts of the limited liability company.
- See Title 4A of the Annotated Code of Maryland, Corporations and Association Article.
- The documents to be reviewed:
 - Articles of Organization;
 - Operating Agreement and any amendments thereto (if written);
 - Certificate of Good Standing of recent date issued by the Secretary of State of the corporation's state of domicile;
 - Agreement or Resolution of the Members authorizing the contemplated transaction, if any; and
 - The Incumbency Certificate.

- Who has the power to sign and bind the Limited Liability Company?
 - Members or an Authorized Person (usually a “Manager”) as authorized by the Articles of Organization, Operating Agreement, or such other agreement signed by all Members establishing the authority to execute the documents.
- Liens/judgements against members do not attach to property owned by company. Judgement against limited liability company is a lien on limited liability company’s real property.
- Bankruptcy of limited liability company places limited liability company’s real property under jurisdiction of bankruptcy Court. Bankruptcy of member has no effect on real estate owned by limited liability company.

General Partnership

- An association of two or more persons or legal entities which carry on, as co-owners, a business for profit for the benefit of all the parties concerned and in which all partners share the profits and losses as well as the management equally.
- See Title 9A of the Annotated Code of Maryland, Corporations and Associations Article.
- The documents to be reviewed:
 - Partnership Agreement and any amendments thereto (if written);
 - A statement of partnership authority, which includes (1) the name of the partnership, (2) the street address of the chief executive office, (3) the names of the partners authorized to execute an instrument, (4) and a grant of authority;
 - Agreement or Resolution of the General Partners authorizing the contemplated transaction; and
 - The Incumbency Certificate.
- Who has the power to sign and bind the General Partnership?
 - Each General Partner or such General Partners authorized to execute the documents by the Partnership Agreement or other “Consent” document.
- Liens/judgements against individual partners may attach to real property owned by the general partnership if based on claim against partnership. Judgement against general partnership is a lien against the general partnership’s real property.
- Bankruptcy of general partnership places partnership’s real property under jurisdiction of Bankruptcy Court. Bankruptcy of individual partners has no effect on real estate owned by the partnership but may cause a dissolution of the general partnership.

Joint Venture

- An undertaking founded on an agreement by two or more persons jointly to carry out a single business enterprise for profit. The undertaking or enterprise usually relates to a single transaction even though it may comprehend a business to be continued for a period of years. The relationship among joint venturers does not create a partnership per se, although courts have shown the tendency to ascribe partnership law to joint ventures.
- Liens/judgements against individual joint venturers may attach to real property owned by the joint venture if based on claim against the joint venture. Judgement against general partnership is lien against the joint venture's real property.
- Bankruptcy of joint venture places venture's real property under jurisdiction of Bankruptcy Court. Bankruptcy of individual venturers has no effect on real estate owned by the venture but may cause a dissolution of the general partnership.

Limited Liability Partnership

- An association of two or more persons or legal entities which carry on, as co-owners, a business for profit for the benefit of all the parties concerned and in which all partners share the profits and losses as well as the management equally.
- See Title 9A, Subtitle 10 Annotated Code of Maryland, Corporations and Associations Article.
- The documents to be reviewed:
 - Certificate of Limited Liability Partnership;
 - Partnership Agreement and any amendments thereto;
 - A statement of partnership authority;
 - Agreement or Resolution of the General Partner(s) authorizing the contemplated transaction; and
 - The Incumbency Certificate.
- Who has the power to sign and bind the Limited Partnership?
 - A General Partner or General Partners authorized to execute the documents by Partnership Agreement or other "Consent" document.
- Liens/judgements against general partner do not attach to property owned by limited liability. Judgement against limited liability partnership is a lien on limited liability partnership's real property.
- Bankruptcy of limited liability partnership places partnership's real property under jurisdiction of Bankruptcy Court. Bankruptcy of individual partners has no effect on real estate owned by the limited liability partnership but may cause of dissolution of the limited liability partnership.

Limited Partnership

- A partnership of one or more general partners by whom the business is conducted and one or more special (limited) partners who have contributed a specific sum as capital and who are only liable for the debts of the partnership up to the amount of their investment.
- See Title 10 of the Corporations and Associations Article of MD Ann. Code.
- The documents to be reviewed:
 - Certificate of Limited Partnership;
 - Partnership Agreement and any amendments thereto;
 - A statement of partnership authority;
 - Agreement or Resolution of the General Partner(s) authorizing the contemplated transaction; and
 - The Incumbency Certificate.
- Who has the power to sign and bind the Limited Partnership?
 - A General Partner or General Partners authorized to execute the documents by Partnership Agreement or other “Consent” document.
- Liens/judgements against general partner may attach to property owned by limited partnership if based on claim against the limited partnership. Judgement against limited partnership is a lien on limited partnership’s real property.
- Bankruptcy of limited partnership places partnership’s real property under jurisdiction of Bankruptcy Court. Bankruptcy of individual partners has no effect on real estate owned by the limited partnership but may cause a dissolution of the limited partnership.

Religious Organizations

- A religious corporation is a type of religious non-profit organization, which has been incorporated under the laws of a state. The Congregation must elect four trustees, who are at least 18 years old, and those trustees are responsible for acting on behalf of the church in forming the religious corporation.
 - See Title 5, Subtitle 3 of the Corporations and Associations Article of the MD Ann. Code.
 - See Part II – Roman Catholic Church; Part III – United Methodist Church; Part IV – Protestant Episcopal Church Diocese of Maryland; and Part V – Protestant Episcopal Church Diocese of Easton.
- An unincorporated or private religious organization is any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, literary, or educational purposes, no part of the net earnings of which insures to the benefit of any private shareholder or individual.
 - See Section 501(c)(3) of the Internal Revenue Code.
- The documents to be reviewed, if applicable:
 - A Plan and any amendments thereto;
 - Articles of Incorporation and any amendments thereto;

- Bylaws or Book of Discipline;
- Certificate of Good Standing of recent date issued by the Secretary of State of the corporation's state of domicile;
- Agreement or Resolution of the Trustee's authorizing the contemplated transaction, if any; and
- The Incumbency Certificate.
- Who has the power to sign and bind the Religious Corporation?
 - A Trustee or Member(s) authorized to execute the documents by Articles of Incorporation, Bylaws, or Agreement or Resolution of the Trustees; or
 - See *From the Heart Church Ministries, et al. v. Philadelphia – Baltimore Annual Conference et al.*, Court of Special Appeals NOS. 2546,2547, September Term, 2006, Filed January 28, 2009

Religious Corporation Sole

- Congress has the power to create a Corporation Sole as they did on May 29, 1948 with the Archdiocese of Washington, D.C.
- A Corporation Sole is a Public office (created usually by an act of parliament) or ecclesiastical office (usually the owner of church land) that has a separate and continuing legal existence, and only one member (the sole officeholder). Contract made with a corporation-sole continues from one officeholder to his or her successor or, if made during a vacancy in office, to the appointee.
- The documents to be reviewed:
 - The Act of Congress creating the Corporation Sole;
 - Certificate of Good Standing of recent date issued by the Secretary of State of the corporation's state of domicile;
 - Documentation showing the current successor in office.
- Who has the power to sign and bind the Corporation Sole?
 - The Successor in Office of the Corporation Sole.

Government Bodies and Political Subdivisions

- Political subdivisions such as cities, towns, and school districts are *often incorporated, and are referred to as municipal corporations. The right to own property or engage in business involving real property is, in most cases, controlled by state law.*
- The documents to be reviewed:
 - A Legislative or Congressional Grant will be required for political corporations such as the state and federal governments;
 - Articles of Incorporation, Bylaws, and a Corporate Resolution of the Board of Directors authorizing the contemplated transaction will be required for municipal corporations.

- Local laws/procedures for disposition of “surplus” property.
- Who has the power to sign and bind a Government Body?
 - For State and Federal Governments, the Legislative or Congressional Grant should identify the particular officers of the governing body to make the conveyance and sign the documents;
 - For Municipal Corporations, the Bylaws or Corporate Resolution of the Board of Directions should identify the particular officers of the governing body to make the conveyance and sign the documents.