



New York Underwriting Bulletin

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Name: Not-For-Profit Corporations

The New York Not-For-Profit Corporation law has been extensively overhauled. Several of the changes affect the underwriting of real estate transactions. The changes take effect July 1, 2014

Types of Corporations

Under the prior law, not-for-profit corporations were designated as type A, B, C, or D, depending on their activities. These designations are now eliminated, and the corporations are now designated either “charitable” or “non-charitable”. All type A corporations will be considered non-charitable, B and C will be considered charitable, and D, the catch-all type, will be considered charitable or non-charitable depending on its purposes. A corporation that has both charitable and non-charitable purposes will be considered charitable.

Approval of Real Estate Transactions

Charitable (formerly Type B or C, and maybe some D’s above) corporations no longer are required to obtain a Supreme Court order to sell, lease, or otherwise dispose of all or substantially all of their assets, although they may still do so if they wish. Alternatively, they may instead get only the approval of the New York Attorney General.

Voting Requirements

Previously, a board having fewer than 21 members required a vote of 2/3 of the entire board to approve any real estate transaction, while a board of 21 or more needed only a majority. The new law requires the 2/3 vote for a board of fewer than 21 members only if the sale, lease, or disposition constitutes all or substantially all of the corporation’s assets. All other transactions require a majority.

Religious Corporations

The pertinent sections of the Religious Corporation law are unchanged. A Religious Corporation still needs a Supreme Court order to sell, mortgage, or lease real property for a term of more than 5 years.

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Please contact underwriting counsel with any questions.

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