

# DELAWARE DIVISION OF CORPORATIONS 2012 ANNUAL REPORT

*Jeffrey W. Bullock, Secretary of State*



## Why Delaware?

Businesses are consistently and in ever increasing numbers choosing Delaware as their legal home for four main reasons:

First, Delaware's General Corporation Law is widely regarded as the most advanced and flexible business formation statute in the nation.

Second, our Court of Chancery is a unique, centuries old business court that has written most of the modern U.S. corporation case law.

Third, Delaware's corporate and legal services community has unparalleled expertise in the application of Delaware corporate law and receives strong, bipartisan support from the Delaware General Assembly and our Governor for its efforts to continuously improve the State's laws.

Finally, the Delaware Division of Corporations provides prompt, friendly and professional service and strives to continually improve based on what we hear from our customers.

## Reaching a New Milestone

Delaware remains the chosen home of more than half of U.S. publicly-traded companies and 64% of the Fortune 500. In March 2013, Delaware celebrated an especially significant milestone when we announced that there were now one million active legal entities domiciled in the state.

Overall, new entity formation in 2012 grew 8.9% to 145,182 legal entities, with 2.9% growth in corporation formation and nearly 10.8% growth in Limited Liability Company (LLC) formation.



**Governor Jack Markell and I join longtime Division of Corporations employee Sandi Pisarski in celebrating Delaware's millionth legal entity.**

## Public Benefit Corporation Legislation

In April 2013, Delaware Governor Jack Markell joined members of the General Assembly in announcing legislation that would enable the formation of Public Benefit Corporations in Delaware. A Public Benefit Corporation (PBC) is a new kind of socially conscious, for-profit corporation whose intention is to operate in a responsible and sustainable manner. PBCs are to be managed for the benefit not only of stockholders, but also for other people, the community and public interests.

Senate Bill 47 would create a clear legal framework for PBCs to simultaneously pursue profit and public benefits. And, equally important, this legislation would allow stockholders to enforce the requirement that a corporation pursue both objectives.

Governor Markell said: "With the addition of Public Benefit Corporations, Delaware continues its national leadership in corporate law and will be supporting a new movement of social entrepreneurs and investors who are stepping forward to meet high standards of corporate purpose, accountability and transparency."

A PBC will be formed in the same manner as any other corporation formed under the Delaware General Corporation Law. However, the corporation's certificate of incorporation must identify one or more specific public benefits and must have a name that clearly identifies its status as a PBC. Public benefits for which corporations may be formed under the proposed law include, but are not limited to, those of an artistic, charitable,

cultural, economic, educational, environmental, literary, medical, religious, scientific or technical nature.

The proposed legislation requires a 90% vote of stockholders to convert an existing corporation into a PBC and mandates appraisal rights for any non-consenting stockholder to seek fair value of his or her stock in cash.

While it is difficult to know how many PBCs will ultimately form in Delaware, we welcome the opportunity to work with entrepreneurs and investors interested in forming PBCs and receiving the stability and predictability offered by the Delaware General Corporation Law and our courts.

## New IPOs

In 2012, 90% of all new U.S. Initial Public Offerings (IPOs) were incorporated in Delaware. In the past year, companies such as the following have chosen to launch their IPOs as Delaware legal entities:

Natural and organic food maker **Annie's Homegrown**

Online social networking service **Facebook**

Travel metasearch engine operator **KAYAK**

Furniture chain **Restoration Hardware**

Business directory service and review site **Yelp**

## Financial Results

General fund revenue collections reached a record high of \$867.2 million dollars in fiscal year (FY) 2012 and accounted for 26% of the State's general fund. The Division also distributed \$11.9 million to local governments in Delaware in the form of recording, courthouse, and other fees. UCC transactional volumes rose 1.6% over 2011, continuing a steady upward climb accompanying a strengthened economy.

Division of Corporations General Fund Revenue	(in millions \$)		
	FY 2010	FY 2011	FY 2012
Net Business Entity Taxes	765.1	759.7	766.0
Business Entity Fees	74.9	83.1	84.5
UCC Fees	14.1	16.4	16.7
<b>TOTAL REVENUE</b>	<b>854.1</b>	<b>859.2</b>	<b>867.2</b>

## Our Commitment to Quality

The Delaware Division of Corporations received ISO 9001 Certification in 2012 following an intense series of quality audits. The Division has long been recognized for its business-like approach. Receiving the certification is a further testament to the Division's many years of quality management, but also an expression of our desire to seek constant improvement. Our quality management system

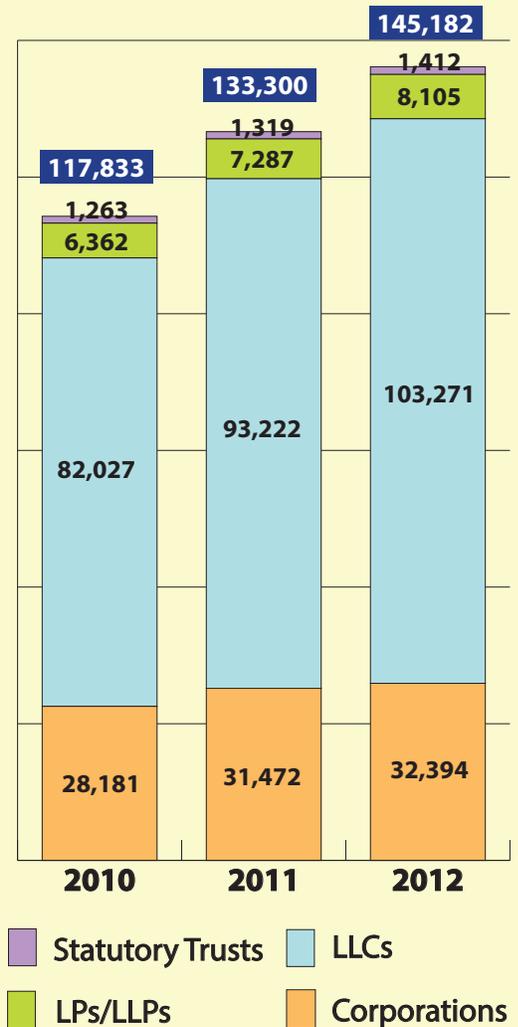
involves measuring everything we do to achieve our goals of growing revenue, increasing productivity, improving customer service and increasing employee satisfaction.

ISO 9001 certification will help us further develop the services we provide and how we provide them to better serve our

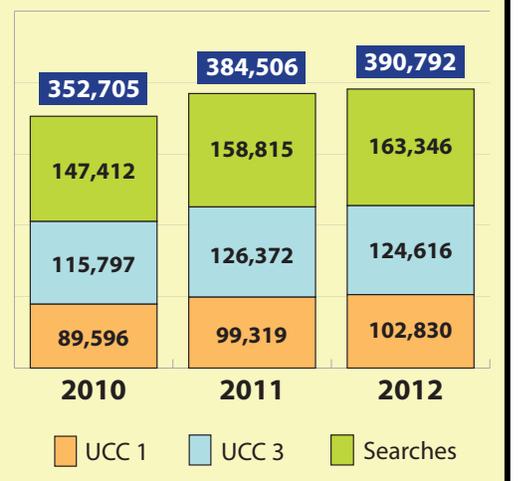
customers. It will also help us better market ourselves to an international audience, as ISO 9001 is highly valued as a standards indicator throughout the world.



## New Business Formations CY 2010 - 2012



## Total UCC Transactions CY 2010 - 2012



## Expanded International Marketing

Our office continues to market Delaware corporate law around the nation and across the world.

In 2012, Delaware delegations participated in the International Bar Association's (IBA) Annual Mergers & Acquisitions Conference, the Northwestern University Security Regulation Institute and the Tulane University Corporate Law Institute. These conferences are attended by hundreds of corporate lawyers from around the world discussing subjects including mergers and acquisitions, boardroom issues, and developments in Delaware corporate law.

In May, Supreme Court Justice Randy Holland and I led a delegation to India, where we visited six of their largest corporate law firms to discuss Delaware corporate law. The delegation also met with members of the Indian judiciary and government ministers.

The Delaware presentation in India included discussion of Federal (U.S.)-State issues; the Delaware General Corporation Law; and the Court of Chancery and the Supreme Court. Also discussed were the role of a registered agent, taxation and how to form a Delaware entity.

Governor Jack Markell also led a delegation to India, which included representatives from the South Asian Bar Association. He followed up with many of the contacts from our earlier trip, and many Indian corporate lawyers and justices attended a reception hosted by the U.S. Ambassador in Delhi.

Representatives from my office also attended the IBA's Annual Meeting in Ireland in October. Chief Justice Myron Steele was the keynote speaker and addressed the recent US court decision clarifying the parameters of board's fiduciary roles toward shareholders and provided guidance on how to properly correct for conflict of interest without jeopardizing the integrity of a deal.

Justice Holland and I also led a delegation to Johannesburg and Cape Town, South Africa to make presentations to law firms, which were very interested in Delaware corporate law. The South African legal system is in the midst of being updated, and many have been looking to Delaware for guidance in business law.

## Looking Forward

The State of Delaware will soon launch two new websites for our customers.

First, the Division of Corporations will unveil a redesigned website to make our current site more mobile friendly.

Second, this summer we will launch a brand new website, in collaboration with the Delaware Courts and our partners in the corporate legal community, marketing Delaware's corporate law. The website will promote our international brand by including information in a variety of different languages. Stay tuned for more information on this and other projects.

## A Final Word

The emails I receive regularly from our customers testify to the courtesy, efficiency and integrity of the staff of the Division of Corporations.

Eileen Simpson led our Franchise Tax Section for 21 years before her retirement in 2012. While Delaware's corporate franchise is global, our corporate legal community is small. The work of each individual makes a big difference. We could not do without people like Eileen Simpson and her colleagues, who make immeasurable contributions throughout their careers to maintain Delaware's reputation for service and excellence.

Sincerely,



Jeffrey W. Bullock