

MARCUS CORP  
Form S-3  
October 18, 2012

**As filed with the Securities and Exchange Commission on October 18, 2012**

Registration No. 333-\_\_\_\_\_

UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

**FORM S-3**

**REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933**

**THE MARCUS CORPORATION**

(Exact name of registrant as specified in its charter)

Wisconsin 39-1139844  
(State or other jurisdiction of (I.R.S. Employer  
incorporation or organization) Identification No.)

**100 East Wisconsin Avenue, Suite 1900**

**Milwaukee, Wisconsin 53202**

**(414) 905-1000**

(Address, including zip code, and  
telephone number, including area code, of  
registrant's principal executive offices)

**Thomas F. Kissinger**

**Vice President, General Counsel and Secretary**

**100 East Wisconsin Avenue, Suite 1900**

**Milwaukee, Wisconsin 53202**

**(414) 905-1000**

(Name, address, including zip code,  
and telephone number, including area code,  
of agent for service)

with a copy to:

**Steven R. Barth**

**Foley & Lardner LLP**

**777 East Wisconsin Avenue**

**Milwaukee, Wisconsin 53202**

**(414) 271-2400**

**Approximate date of commencement of proposed sale to the public:** From time to time after the effective date of this registration statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box:

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box:

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering:

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering:

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If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box: "

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box: "

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer "	Accelerated filer x
Non-accelerated filer " (Do not check if a smaller reporting company)	Smaller reporting company "

## CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Amount to be registered(1)(2)	Proposed maximum offering price per unit(2)	Proposed maximum aggregate offering price(2)(3)	Amount of registration fee(2)
Primary Offering:				
Debt Securities				
Common Stock, \$1.00 par value				
Preferred Stock, \$1.00 par value				
Warrants				
Stock Purchase Contracts				
Stock Purchase Units				
Total Primary Offering			\$ 150,000,000	(4) \$ 20,460 (4)
Secondary Offering:				
Common Stock, \$1.00 par value	5,000,000	\$ 10.95	\$ 54,750,000	(5) \$ 7,468 (5)
Total			\$ 204,750,000	\$ 15,878 (6)

(1) Includes an indeterminate aggregate principal amount and number of securities of each identified class of securities up to a proposed aggregate offering price of \$150,000,000, which may be offered by the registrant from time to time in unspecified numbers and at indeterminate prices, and as may be issued upon conversion, redemption, repurchase, exchange or exercise of any securities registered hereunder, including any applicable anti-dilution provisions. In addition, up to 5,000,000 shares of the registrant's common stock may be sold pursuant to this registration statement by the selling shareholders described herein. This registration statement also covers delayed delivery contracts that may be issued by the registrant under which the party purchasing such contracts may be required to purchase debt securities, common stock or preferred stock. Such contracts may be issued together with the specific securities to which they relate. Securities registered hereunder to be sold by the registrant may be sold either separately or as units comprised of more than one type of security registered hereunder.

(2) Pursuant to General Instruction II.D of Form S-3, the table lists each of the classes of securities being registered and the aggregate proceeds to be raised but, other than with respect to the secondary offering, does not specify by each class information as to the amount to be registered, proposed maximum offering price per unit, and proposed maximum aggregate offering price.

(3) If applicable, includes consideration to be received by the registrant for registered securities that are issuable upon exercise, conversion or exchange of other registered securities or that are issued in units.

(4) The proposed maximum aggregate offering price for the primary offering has been estimated solely for purposes of calculating the registration fee pursuant to Rule 457(o) and General Instruction II. D. of Form S-3.

(5) Pursuant to Rule 457(c), the proposed maximum aggregate offering price and registration fee for the secondary offering are computed based on the average of the high and low prices reported for the registrant's common stock

traded on the New York Stock Exchange on October 12, 2012.

(6) Pursuant to Rule 457(p), the registrant has offset \$12,050, which is the total dollar amount of the filing fee associated with the \$150,000,000 maximum aggregate offering price of unsold securities and 5,000,000 unsold shares of the registrant's common stock under the registrant's Registration Statement on Form S-3 (Registration No. 333-161407) filed on August 17, 2009, against the amount of the registration fee for this registration statement (\$27,928). Upon effectiveness of this registration statement, that prior Registration Statement No. 333-161407 is hereby replaced.

**The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.**

PROSPECTUS Subject to Completion Dated \_\_\_\_\_, 2012

THE MARCUS CORPORATION

**Debt Securities**

**Common Stock**

**Preferred Stock**

**Warrants**

**Stock Purchase Contracts**

**Stock Purchase Units**

We may from time to time offer and sell up to \$150,000,000 aggregate dollar amount of debt securities, common stock, preferred stock, warrants, stock purchase contracts and stock purchase units. In addition, selling shareholders may from time to time sell up to 5,000,000 shares of our common stock. We will not receive any proceeds from the sale, if any, of common stock by selling shareholders. We will specify in one or more prospectus supplements the terms of the securities to be offered and sold. We and/or selling shareholders may sell these securities to or through underwriters or dealers and also to other purchasers or through agents. We will set forth the names of any underwriters, dealers or agents, as well as the specific terms of the plan of distribution, in one or more prospectus supplements.

Our common stock is traded on the New York Stock Exchange under the symbol "MCS."

You should read this prospectus, any supplement and any other offering material carefully before you invest.

**Investing in our securities involves a high degree of risk. See "Risk Factors" on page 2.**

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

**The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.**

The date of this prospectus is October 18, 2012.

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ABOUT THIS PROSPECTUS

Unless the context otherwise requires or as otherwise specifically stated, in this prospectus, “we,” “us,” “our” and “ours” refer to The Marcus Corporation.

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission, or SEC, utilizing a “shelf” registration process. Under this shelf process, we may, from time to time, sell the securities or combinations of the securities described in this prospectus in one or more primary offerings up to an aggregate dollar amount of \$150,000,000. In addition to the primary offering of securities, selling shareholders may from time to time sell up to 5,000,000 shares of our common stock in one or more secondary offerings. This prospectus provides you with a general description of the securities that we and our selling shareholders may offer. Each time we or our selling shareholders offer securities, we will provide a prospectus supplement that will contain specific information about the terms of that offering. The prospectus supplement may also add, update or change information contained in this prospectus. You should read both this prospectus and any prospectus supplement together with additional information described under the heading “Where You Can Find More Information.”

You should rely only on the information contained or incorporated by reference in this prospectus and in any accompanying prospectus supplement. Neither we nor the selling shareholder have authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should

not rely on it. Neither we nor the selling shareholder are making offers to sell or solicitations to buy the securities in any jurisdiction in which an offer or solicitation is not authorized or in which the person making that offer or solicitation is not qualified to do so or to anyone to whom it is unlawful to make an offer or solicitation. You should not assume that the information in this prospectus or any prospectus supplement, as well as the information we file or previously filed with the SEC that we incorporate by reference in this prospectus or any prospectus supplement, is accurate as of any date other than its respective date. Our business, financial condition, results of operations and prospects may have changed since those dates.

## THE COMPANY

Founded in 1935, we are a lodging and entertainment company engaged primarily in two business segments: movie theatres and hotels and resorts. As of May 31, 2012, our theatre operations included 56 movie theatres with 694 screens throughout Wisconsin, Ohio, Illinois, Minnesota, North Dakota, Nebraska and Iowa, including two movie theatres with 11 screens in Wisconsin and Nebraska owned by third parties but managed by us. We also operated a family entertainment center, *Funset Boulevard*, that is adjacent to one of our theatres in Appleton, Wisconsin. We are currently the 6th largest theatre circuit in the United States. As of May 31, 2012, our hotels and resorts operations included eight owned and operated hotels and resorts in Wisconsin, Missouri, Illinois and Oklahoma. We also managed ten hotels, resorts and other properties for third parties in Wisconsin, Minnesota, Ohio, Texas, Missouri, Nevada and California. As of May 31, 2012, we owned or managed over 4,700 hotel and resort rooms.

Our headquarters are located at 100 East Wisconsin Avenue, Suite 1900, Milwaukee, Wisconsin 53202, and our telephone number is (414) 905-1000.

## RISK FACTORS

*Investing in our securities involves significant risks. Before making an investment decision, you should carefully consider the risks and other information we include or incorporate by reference in this prospectus and any prospectus supplement. In particular, you should consider the risk factors under the heading "Risk Factors" included in our most recent Annual Report on Form 10-K, as may be revised or supplemented by our subsequent Quarterly Reports on Form 10-Q or Current Reports on Form 8-K, each of which are on file with the SEC and are incorporated herein by reference, and which may be amended, supplemented or superseded from time to time by other reports we file with the SEC in the future. The risks and uncertainties we have described are not the only ones facing our company. Additional risks and uncertainties not currently known to us or that we currently deem immaterial may also affect our business operations. Additional risk factors may be included in a prospectus supplement relating to a particular offering of securities.*

## USE OF PROCEEDS

Unless otherwise described in the applicable prospectus supplement, we intend to use the net proceeds from the sale of the securities for general corporate purposes, including potentially expanding existing businesses, acquiring businesses, investing in other business opportunities, and repaying, repurchasing or redeeming existing debt. Pending such use, we may temporarily invest the net proceeds in short-term investments.

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We will not receive any proceeds from the sale of shares of common stock by selling shareholders.

RATIO OF EARNINGS TO FIXED CHARGES

	13 Weeks Ended		Fiscal Year Ended					
	8/30/2011	12/25/2011	5/31/2011	5/26/2011	5/27/2010	5/28/2009	5/29/2008	
Ratios of earnings to fixed charges	6.86	x 7.10	x 3.75	x 2.44	x 2.59	x 2.52	x 2.90	x

For purposes of calculating the ratios of earnings to fixed charges, earnings consist of earnings from continuing operations before income taxes and before adjustment for earnings or losses from unconsolidated joint ventures, plus fixed charges and amortization of capitalized interest and distributions from unconsolidated joint ventures, less capitalized interest. Fixed charges consist of interest expensed and capitalized, amortized debt issuance costs and an estimate of interest within rental expense.

During the periods presented above, we did not have any preferred stock outstanding and, accordingly, we did not pay or accrue any preferred stock dividends.

### Securities to be Offered

We may offer debt securities, shares of common stock, shares of preferred stock, warrants, stock purchase contracts and stock purchase units from time to time in one or more primary offerings, and selling shareholders may offer common stock from time to time in one or more secondary offerings. We will set forth in the applicable prospectus supplement a description of the securities that may be offered under this prospectus. The terms of the offering of securities, the initial offering price and the net proceeds to us or the selling shareholders will be contained in the prospectus supplement and/or other offering material relating to such offering.

### DESCRIPTION OF DEBT SECURITIES

The following description of the debt securities sets forth the material terms and provisions of the debt securities to which any prospectus supplement and/or other offering material may relate. The particular terms of the debt securities offered by any prospectus supplement and/or other offering material and the extent, if any, to which the provisions described in this prospectus may apply to the offered debt securities will be described in the prospectus supplement and/or other offering material relating to the offered debt securities. As used in this section, the terms “we,” “us,” “our,” and the “company” refer to The Marcus Corporation, a Wisconsin corporation, and not any of its subsidiaries, unless the context requires.

Senior debt securities will be issued under an indenture between us and a U.S. banking institution named as trustee in a prospectus supplement and/or other offering material, a form of which is incorporated by reference as an exhibit to the registration statement of which this prospectus is a part. The indenture relating to the senior debt securities, as amended or otherwise supplemented by any supplemental indentures, is referred to in this prospectus as the senior indenture. Subordinated debt securities will be issued under an indenture between us and a U.S. banking institution named as trustee in a prospectus supplement and/or other offering material, a form of which is incorporated by reference as an exhibit to the registration statement of which this prospectus is a part. The indenture relating to the subordinated debt securities, as amended or otherwise supplemented by any supplemental indentures, is referred to in

this prospectus as the subordinated indenture. The senior indenture and the subordinated indenture are sometimes referred to in this prospectus collectively as the indentures, and each individually, as an indenture.

The following summaries of the material provisions of the indentures and the debt securities do not purport to be complete and are subject to, and are qualified in their entirety by reference to, all of the provisions of the indentures, including the definitions of specified terms used in the indentures, and the debt securities. Wherever particular articles, sections or defined terms of an indenture are referred to, it is intended that those articles, sections or defined terms will be incorporated herein by reference, and the statement in connection with which reference is made is qualified in its entirety by the article, section or defined term in the indenture.

General

The indentures do not limit the amount of debt, either secured or unsecured, which we may issue under the indentures or otherwise. The debt securities may be issued in one or more series with the same or various maturities and may be sold at par, a premium or an original issue discount. Some of the debt securities may be issued under the applicable indenture as original issue discount securities to be sold at a substantial discount below their principal amount. Federal income tax and other considerations applicable to any original issue discount securities will be described in the related prospectus supplement and/or other offering material. We have the right to “reopen” a previous issue of a series of debt by issuing additional debt securities of such series.

We conduct a substantial amount of our operations through subsidiaries and expect that we will continue to do so. Our right to participate as a shareholder in any distribution of assets of any subsidiary upon its liquidation or reorganization or otherwise and the ability of a holder of debt securities to benefit as our creditor from any distribution are subject to prior claims of creditors of the subsidiary. The debt securities will also effectively rank junior in right of payment to any of our secured debt.

The prospectus supplement and/or other offering material relating to the particular series of debt securities offered thereby will describe the following terms of the offered debt securities:

the title of the offered debt securities;

any limit upon the aggregate principal amount of the offered debt securities;

the date or dates (or the manner of calculating the date or dates) on which the principal of the offered debt securities is payable;

the rate or rates (or the manner of calculating the rate or rates) at which the offered debt securities shall bear interest, if any, the date or dates from which such interest shall accrue, the interest payment dates on which such interest shall be payable and the regular record date for the interest payable on any interest payment date;

the place or places where the principal of and premium, if any, and interest, if any, on the offered debt securities will be payable;

the period or periods within which, the price or prices at which, the currency in which, and the terms and conditions upon which the offered debt securities may be redeemed, in whole or in part, at our option;

our obligation, if any, to redeem or purchase the offered debt securities pursuant to any sinking fund or analogous provisions or at the option of a holder thereof and the period or periods within which, the price or prices in the currency at which, the currency in which, and the terms and conditions upon which the offered debt securities shall be redeemed or purchased, in whole or in part, pursuant to such obligation;

the denominations in which the offered debt securities shall be issuable if other than denominations of \$1,000 and any integral multiple thereof;

if other than the currency of the United States of America, the currencies in which payments of interest or principal of (and premium, if any, with respect to) the offered debt securities are to be made;

if the interest on or principal of (or premium, if any, with respect to) the offered debt securities are to be payable, at our election or at the election of a holder thereof or otherwise, in a currency other than that in which such debt securities are payable, the period or periods within which, and the other terms and conditions upon which, such election may be made, and the time and manner of determining the exchange rate between the currency in which such debt securities are denominated or stated to be payable and the currency in which such debt securities or any of them are to be so payable;

whether the amount of payments of interest on or principal of (or premium, if any, with respect to) the offered debt securities of such series may be determined with reference to an index, formula or other method (which index, formula or other method may be based, without limitation, on one or more currencies, commodities, equity indices or other indices), and, if so, the terms and conditions upon which and the manner in which such amounts shall be determined and paid or payable;

the extent to which any offered debt securities will be issuable in permanent global form, the manner in which any payments on a permanent global debt security will be made, and the appointment of any depository relating thereto;

the inapplicability of specified provisions relating to discharge and defeasance described in this prospectus with respect to the offered debt securities;

any covenants with respect to the offered debt securities of such series;

any deletions from, modifications of or additions to the events of default with respect to the offered debt securities of such series, whether or not such events of default are consistent with the events of default set forth herein;

if any of the offered debt securities are to be issuable upon the exercise of warrants, and, if so, the time, manner and place for such debt securities to be authenticated and delivered;

the terms of any right to convert the offered debt securities of such series into, or