LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2003

determined under rules of the department. ~~When a company is under the control of one person who is solely responsible for the contracts, methods of work and supervision of each piece of work, this person alone must procure a license but when more than one person is responsible for contracts, methods of work and supervision of the same, each person must procure a license.~~

Sec. 2. 7 MRSA §2189, as enacted by PL 1999, c. 84, §3, is amended by adding at the end a new paragraph to read:

If a nonresident applicant for a license holds a valid certificate issued by the International Society of Arboriculture, or successor organization, examination of the applicant may also be waived by the department, providing the testing process of the International Society of Arboriculture or a successor organization does not drop below the standards set forth in this subchapter.

Sec. 3. 7 MRSA §2190, sub-§§6 and 7, as enacted by PL 1999, c. 84, §3, are amended to read:

6. False advertising. Pursuing a continued course of misrepresentation or of making false promises through advertising, sales representatives, agents or otherwise in connection with the business of an arborist; ~~or~~

7. Qualifications. Failure to possess the necessary qualifications or to meet the requirements of this subchapter for the issuance or holding of a license~~.~~; or

Sec. 4. 7 MRSA §2190, sub-§8 is enacted to read:

8. Continued course of unprofessional conduct. Pursuing a continued course of conduct that violates the standards of practice for the profession as established by rule and that is demonstrated by repeated verified complaints against a licensed arborist.

See title page for effective date.

CHAPTER 344

H.P. 1128 - L.D. 1539

An Act To Amend the Laws Relating to Corporations, Limited Partnerships, Limited Liability Companies, Limited Liability Partnerships and Marks

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Revised Statutes, Title 13-C, which governs domestic and foreign corporations in Maine, will become effective on July 1, 2003, and changes to that law and to laws depending on that Title must be in place prior to July 1, 2003, in order for the Secretary of State to properly administer the law; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 10 MRSA §1521, sub-§1-C is enacted to read:

1-C. Corporate name. "Corporate name" includes any corporate name, reserved name, registered name or assumed name as those terms are used in Title 13-C, sections 401, 402, 403 and 404 respectively and includes a corporate name, reserved name, registered name or assumed name as those terms are used in Title 13-B, sections 301-A, 302-A, 303-A and 308-A respectively.

Sec. A-2. 10 MRSA §1521, sub-§2, as amended by PL 1993, c. 316, §2, is repealed.

Sec. A-3. 10 MRSA §1521, sub-§2-A, as enacted by PL 1993, c. 316, §3, is amended to read:

2-A. Limited partnership name. "Limited partnership name" includes ~~any~~ a limited partnership name, reserved name, assumed name or registered name as those terms are used in Title 31, sections ~~403~~ 403-A, ~~404~~ 404-A, ~~405~~ 405-A and ~~406~~ 406-A respectively.

Sec. A-4. 10 MRSA §1521, sub-§2-B, as enacted by PL 1993, c. 718, Pt. B, §1, is amended to read:

2-B. Limited liability company name. "Limited liability company name" includes a limited liability company name, reserved name, assumed name or registered name as those terms are used in Title 31, sections ~~603~~ 603-A to ~~606~~ 606-A.

Sec. A-5. 10 MRSA §1521, sub-§2-C, as enacted by PL 1995, c. 633, Pt. C, §1, is amended to read:

2-C. Limited liability partnership name. "Limited liability partnership name" includes a limited

liability partnership name, reserved name, assumed name or registered name as those terms are used in Title 31, sections ~~803~~ 803-A to ~~806~~ 806-A.

Sec. A-6. 10 MRSA §1522, sub-§1, ¶G, as amended by PL 1995, c. 633, Pt. C, §2, is further amended to read:

G. ~~Consists of or comprises a corporate~~ Is not distinguishable from the real, assumed, fictitious, reserved or registered name of a corporation, limited liability company, limited liability partnership or limited partnership ~~name~~, unless the corporation, limited liability company, limited liability partnership or limited partnership executes and files with the Secretary of State proof of authorization of the use of a mark similar to the real, assumed, fictitious, reserved or registered name of a corporation, limited liability company, limited liability partnership or limited partnership ~~name~~ by the applicant seeking to use the mark;

PART B

Sec. B-1. 13 MRSA §723, sub-§8, as enacted by PL 2001, c. 640, Pt. B, §2 and affected by §7, is amended to read:

8. Qualified person. "Qualified person" means an individual, general partnership, professional limited liability company, professional limited liability partnership, other professional corporation or other entity or trust that is eligible under this chapter to be issued shares by a professional corporation or any other entity that is authorized by statute to provide the same professional service provided by the professional corporation.

Sec. B-2. 13 MRSA §732, sub-§3, as enacted by PL 2001, c. 640, Pt. B, §2 and affected by §7, is amended to read:

3. Accountants. Nonlicensed individuals and qualified employee stock ownership plans or programs or other employee ownership programs and other entities may organize with individuals who are licensed under Title 32, chapter 113 and may become shareholders of a firm licensed to practice public accountancy under Title 32, section 12252, as long as all of the requirements for licensure under Title 32, section 12252, subsection 3 are met by the firm.

Sec. B-3. 13 MRSA §736, sub-§2, as enacted by PL 2001, c. 640, Pt. B, §2 and affected by §7, is amended to read:

2. Assumed or fictitious name. A domestic professional corporation or foreign professional corporation may render professional services and exercise its authorized powers under an assumed or fictitious name, as long as the corporation has ~~first registered the name to be so used in the manner required by~~ met the requirements for filing an assumed or fictitious name under Title 13-C, section 404.

Sec. B-4. 13 MRSA §741, sub-§1, ¶¶C and D, as enacted by PL 2001, c. 640, Pt. B, §2 and affected by §7, are amended to read:

C. Professional corporations, professional limited liability companies or professional limited liability partnerships, domestic or foreign, authorized by law in this State to render a professional service described in the corporation's articles of incorporation; ~~or~~

D. Any other entity that is authorized by law to provide the same professional service provided by the professional corporation~~.~~; or

Sec. B-5. 13 MRSA §741, sub-§1, ¶E is enacted to read:

E. Any other person or entity, including employee stock ownership plans or programs and other employee ownership programs, that the licensing authority with jurisdiction over the professional corporation determines is qualified to hold shares of such a professional corporation.

Sec. B-6. 13-B MRSA §101, as enacted by PL 1977, c. 525, §13, is amended to read:

§101. Short title

This ~~Act shall~~ Title may be known and ~~may be~~ cited as the "Maine Nonprofit Corporation Act."

Sec. B-7. 13-B MRSA §102, sub-§§5-B, 6-A and 9-A are enacted to read:

5-B. Entity. "Entity" has the same meaning as set out in Title 13-C, section 102, subsection 11.

6-A. Individual. "Individual" means a natural person.

9-A. Person. "Person" includes an individual and an entity.

Sec. B-8. 13-B MRSA §301, as amended by PL 1997, c. 633, §4, is repealed.

Sec. B-9. 13-B MRSA §301-A is enacted to read:

§301-A. Corporate name

1. Prohibition. A corporate name may not contain language stating or implying that the corporation is organized for a purpose other than that permitted by

section 201 and the corporation's articles of incorporation.

2. Distinguishable name. Except as authorized by subsections 3 and 4, a corporate name must be distinguishable on the records of the Secretary of State from:

A. The name of a corporation, limited liability company, limited liability partnership or limited partnership that is incorporated, organized or authorized to transact business or carry on activities in this State;

B. Assumed, fictitious, reserved and registered name filings for all entities; and

C. Marks registered under Title 10, chapter 301-A unless the registered owner or holder of the mark is the same person or entity as the corporation seeking to use a name that is not distinguishable on the records of the Secretary of State and files proof of ownership with the Secretary of State.

3. Refuse to file name. The Secretary of State, in the Secretary of State's discretion, may refuse to file a name that:

A. Consists of or comprises language that is obscene;

B. Inappropriately promotes abusive or unlawful activity;

C. Falsely suggests an association with public institutions; or

D. Violates any other provision of the law of this State with respect to names.

4. Authorization to use name. A corporation may apply to the Secretary of State for authorization to use a name that is not distinguishable on the records of the Secretary of State from one or more of the names described in subsection 2. The Secretary of State shall authorize use of the name applied for if:

A. The entity in possession of the name consents to the use in writing and submits an undertaking in a form satisfactory to the Secretary of State as provided in sections 104 and 106 or as provided in the applicable law for that entity to change its name to a name that is distinguishable on the records of the Secretary of State from the name of the applicant; or

B. The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this State.

5. Use of another corporation's name. A corporation may use the name, including the assumed or fictitious name, of another domestic or foreign corporation that is used in this State if the other corporation is incorporated or authorized to transact business in this State and the corporation proposing to use the name:

A. Has merged with the other corporation;

B. Has been formed by reorganization of the other corporation; or

C. Has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

6. Determining distinguishability. In determining whether names are distinguishable on the records, the Secretary of State shall disregard the following:

A. The words or abbreviations of words that describe the nature of the entity, including "professional association," "corporation," "company," "incorporated," "chartered," "limited," "limited partnership," "limited liability company," "professional limited liability company," "limited liability partnership," "registered limited liability partnership," "service corporation" and "professional corporation";

B. The presence or absence of the words or symbols of the words "and" and "the"; and

C. The differences in the use of punctuation, capitalization or special characters.

7. Change of corporate name by foreign corporation. If a foreign corporation authorized to carry on activities in this State changes its corporate name to one that does not satisfy the requirements of this section, the foreign corporation may not carry on activities in this State under the proposed new name until it adopts a name satisfying the requirements of this section and files an amended application for authority under section 1207 that is accompanied by a statement of use of a fictitious name under section 308-A.

8. Violations of this section. If a corporation has in other respects complied with this Title and its articles of incorporation have been filed, or if a foreign corporation has in other respects satisfied this Title and has been authorized to carry on activities in this State, subsequent discovery of a violation of the foregoing provisions of this section does not invalidate its corporate existence or authority, but the courts of this State may, upon application of the State or of any interested or affected person, enjoin such violation and grant any other appropriate relief.

Sec. B-10. 13-B MRSA §302, as amended by PL 1979, c. 127, §96, is repealed.

Sec. B-11. 13-B MRSA §302-A is enacted to read:

§302-A. Reserved name

1. Reserve use of name. A person may reserve the exclusive use of a corporate name, including an assumed or fictitious name, by executing and delivering for filing as provided in section 106 an application to the Secretary of State. The application must be executed by a duly authorized person and must set forth the name and address of the applicant and the name proposed to be reserved. If the Secretary of State finds that the corporate name applied for is available, the Secretary of State shall reserve the name for the applicant's exclusive use for a nonrenewable period of 120 days.

2. Transfer of reservation. The owner of a reserved corporate name under subsection 1 may transfer the reservation to another person by executing and delivering for filing to the Secretary of State as provided in section 106 a notice of the transfer, signed by the transferor, that states the name and address of the transferee.

Sec. B-12. 13-B MRSA §303, as corrected by RR 2001, c. 2, Pt. B, §35 and affected by §58, is repealed.

Sec. B-13. 13-B MRSA §303-A is enacted to read:

§303-A. Registered name of foreign corporation

1. Register corporate name. A foreign corporation may register its corporate name if the name is distinguishable on the records of the Secretary of State pursuant to section 301-A.

2. Application. To register its corporate name, a foreign corporation must execute and deliver to the Secretary of State for filing as provided in sections 104 and 106 an application that:

A. Sets forth its corporate name, the state or country and date of its incorporation, the address of its principal office wherever located and a brief description of the nature of the activities in which it is engaged; and

B. Is accompanied by a certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated. The certificate of existence must have been made not more than 90 days prior to the delivery of the application for filing.

3. Applicant's exclusive use. A corporate name is registered for a foreign corporation's exclusive use upon the effective date of the application under subsection 2 until the end of the calendar year in which the application was filed.

4. Renewal of registered name. A foreign corporation whose registration is effective may renew the registration for a successive year by delivering for filing to the Secretary of State a renewal application that complies with the requirements of subsection 2 between October 1st and December 31st. The renewal application, when filed, renews the registration for the following calendar year.

5. Qualify as foreign corporation. A foreign corporation whose registration is effective may, after the registration is effective, qualify as a foreign corporation under the registered name or may consent in writing to the use of that name by a corporation incorporated under this Title or by another foreign corporation authorized to transact business in this State. The registration terminates when the domestic corporation is incorporated or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name.

Sec. B-14. 13-B MRSA §308, as amended by PL 1995, c. 458, §7, is repealed.

Sec. B-15. 13-B MRSA §308-A is enacted to read:

§308-A. Assumed or fictitious name of corporation

1. Assumed name defined. As used in this section, "assumed name" means a trade name, the name of a division not separately incorporated and not used in conjunction with the real corporate name or any name other than the real name of a corporation except a fictitious name.

2. Fictitious name defined. As used in this section, "fictitious name" means a name adopted by a foreign corporation authorized to carry on activities in this State because its real name is unavailable pursuant to section 301-A.

3. Authorized to transact business. Upon complying with this section, a domestic or foreign corporation authorized to carry on activities in this State may carry on its activities in this State under one or more assumed or fictitious names.

4. File statement indicating use of assumed or fictitious name. Prior to carrying on any activities in this State under an assumed or fictitious name, a corporation shall execute and deliver for filing, in

accordance with sections 104 and 106, a statement setting forth:

A. The corporate name and the address of the corporation's registered office;

B. That the corporation intends to carry on activities under an assumed or fictitious name;

C. The assumed or fictitious name that the corporation proposes to use;

D. If the assumed name is not to be used at all of the corporation's places of activity in this State, the locations where it will be used; and

E. If the corporation is a foreign corporation:

(1) The jurisdiction of incorporation; and

(2) The date on which it was authorized to carry on activities in this State.

A separate statement must be executed and delivered to the Secretary of State for filing with respect to each assumed or fictitious name that the corporation proposes to use.

5. Compliance required. An assumed or fictitious name must comply with the requirements of section 301-A.

6. Enjoin use of assumed or fictitious name. If a corporation uses an assumed or fictitious name without complying with the requirements of this section, the continued use of the assumed or fictitious name may be enjoined upon suit by the Attorney General or by any person adversely affected by the use of the assumed or fictitious name.

7. Enjoin use despite compliance. Notwithstanding its compliance with the requirements of this section, the use of an assumed or fictitious name may be enjoined upon suit of the Attorney General or of any person adversely affected by such use if:

A. The assumed or fictitious name did not, at the time the statement required by subsection 4 was filed, comply with the requirements of section 301-A; or

B. The assumed or fictitious name is not distinguishable on the records of the Secretary of State from a name in which the plaintiff has prior rights by virtue of the common law or statutory law of unfair competition, unfair trade practices, common law copyright or similar law.

The filing of a statement pursuant to subsection 4 does not constitute actual use of the assumed or fictitious name set out in that statement for purposes of determining priority of rights.

8. Terminate use of assumed or fictitious name. A corporation may terminate an assumed or fictitious name by executing and delivering, in accordance with sections 104 and 106, a statement setting forth:

A. The name of the corporation and the address of its registered office;

B. That the corporation no longer intends to carry on activities under the assumed or fictitious name; and

C. The assumed or fictitious name the corporation intends to terminate.

Sec. B-16. 13-B MRSA §404, sub-§1, ¶C, as amended by PL 1989, c. 501, Pt. L, §40, is further amended to read:

C. Do not adopt as the name of the corporation a name ~~which~~ that is in violation of section ~~301~~ 301-A.

Sec. B-17. 13-B MRSA §1202, sub-§2, as enacted by PL 1977, c. 525, §13, is amended to read:

2. Certificate of existence. The application of the corporation for authority ~~shall~~ must be accompanied by a certificate of ~~good standing~~ existence or ~~its equivalent from the proper officer of its jurisdiction of incorporation~~ a document of similar import duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated. ~~Such~~ The certificate of ~~good standing shall~~ existence must have been made not more than 90 days prior to the delivery of the application for filing.

Sec. B-18. 13-B MRSA §1205, sub-§1, as enacted by PL 1977, c. 525, §13, is amended to read:

1. Name. ~~No~~ A foreign corporation ~~shall be~~ is not authorized to carry on activities in this State unless the name of the corporation complies with the requirements of section ~~301~~ 301-A.

Sec. B-19. 13-B MRSA §1208, sub-§3 is enacted to read:

3. Cancellation of authority. If a foreign nonprofit corporation files articles of domestication and conversion as set forth in Title 13-C, chapter 9, its authority is cancelled automatically on the effective date of its domestication and conversion.

Sec. B-20. 13-B MRSA §1210, sub-§§2 and 3, as amended by PL 1989, c. 501, Pt. L, §41, are further amended to read:

2. Secretary of State to mail revocation of authority. The authority of a foreign corporation ~~shall~~

~~be~~ is revoked only after the Secretary of State ~~shall have~~ has mailed to the corporation's last registered office in this State and to its last registered or principal office in its jurisdiction of incorporation at least ~~30 days'~~ 60-days' notice of impending revocation of its authority to carry on activities in this State, including a specification of the default, and the corporation ~~shall fail~~ fails, prior to revocation, to cure the default specified in ~~such~~ the notice.

3. Certificate revoked. After the expiration of the ~~30-day~~ 60-day period, if the foreign corporation has not cured the default or, as to the ground for revocation specified in subsection 1, paragraph E, convinced the Secretary of State, by affidavit or otherwise, that there was no such misrepresentation, the Secretary of State shall issue and file a certificate revoking the foreign corporation's authority to carry on activities in this State, and shall mail copies ~~thereof~~ of the certificate to the corporation's last registered office in this State and to its last registered or principal office in its jurisdiction of incorporation.

Sec. B-21. 13-B MRSA §1401, sub-§1, as enacted by PL 1977, c. 525, §13, is repealed.

Sec. B-22. 13-B MRSA §1401, sub-§1-A is enacted to read:

1-A. Application for indistinguishable name. Application for the use of an indistinguishable name as provided by section 301-A, subsection 4, $5;

Sec. B-23. 13-B MRSA §1401, sub-§§2 to 5, as enacted by PL 1977, c. 525, §13, are amended to read:

2. Application to reserve name. Application to reserve corporate name, as provided by section ~~302~~ 302-A, $5;

3. Notice of transfer of reserved corporate name. Notice of transfer of a reserved corporate name, as provided by section ~~302~~ 302-A, $5;

4. Application to register corporate name. Application to register corporate name, as provided by section ~~303~~ 303-A, $5 per month for the number of months or fraction ~~thereof~~ of a month remaining in the calendar year when the application is first filed;

5. Application to renew registered name. Application to renew the registration of a registered name, as provided by section ~~303~~ 303-A, $50;

Sec. B-24. 13-B MRSA §1401, sub-§5-A, as enacted by PL 1993, c. 316, §45, is repealed.

Sec. B-25. 13-B MRSA §1401, sub-§10-A, as enacted by PL 1983, c. 86, §5, is amended to read:

10-A. Assumed or fictitious name statement. Assumed or fictitious name statement, as provided by section ~~308~~ 308-A, $5;

Sec. B-26. 13-B MRSA §1401, sub-§10-B, as enacted by PL 1993, c. 316, §45, is amended to read:

10-B. Termination of assumed or fictitious name. Termination of assumed or fictitious name, as provided by section ~~308~~ 308-A, subsection ~~7~~ 8, $5;

Sec. B-27. 13-B MRSA §1401, sub-§30, as amended by PL 1991, c. 780, Pt. U, §21, is repealed.

Sec. B-28. 13-C MRSA §101, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

§101. Short title

This ~~Act~~ Title may be known and cited as the "Maine Business Corporation Act."

Sec. B-29. 13-C MRSA §102, sub-§2-A is enacted to read:

2-A. Close corporation. "Close corporation" means a corporation that, at any given time, has not more than 20 shareholders of all classes of shares, whether or not the shareholders are entitled to vote. For purposes of determining whether a corporation is a close corporation, 2 or more persons owning shares of record in their names as joint tenants are counted as a single shareholder.

Sec. B-30. 13-C MRSA §102, sub-§§18 and 19, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

18. Individual. "Individual" means a natural person. ~~"Individual" includes the estate of an incompetent or deceased individual.~~

19. Interest. "~~Interests in an unincorporated entity~~ Interest" means either or both of the following rights under the organic law of an unincorporated entity:

A. A right to receive distributions from ~~an unincorporated~~ the entity either in the ordinary course or upon liquidation, including as an assignee; ~~or~~ and

B. A right to receive notice or vote on issues involving the internal affairs of an unincorporated entity, other than as an agent, assignee, proxy or person responsible for managing the business and affairs of the ~~unincorporated~~ entity.

Sec. B-31. 13-C MRSA §102, sub-§19-A is enacted to read:

19-A. Interest holder. "Interest holder" means a person who holds of record an interest.

Sec. B-32. 13-C MRSA §102, sub-§23, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

23. Nonprofit corporation; domestic nonprofit corporation. "Nonprofit corporation" or "domestic nonprofit corporation" means a corporation incorporated under the laws of this State and subject to the provisions of Title 13, chapter 81 or 93 or the Maine Nonprofit Corporation Act.

Sec. B-33. 13-C MRSA §121, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

§121. Requirements for documents; extrinsic facts

To be entitled to filing with the office of the Secretary of State, a document must satisfy the following requirements and the requirements of any other section of this Act.

1. Filing in office of Secretary of State. Filing of the document in the office of the Secretary of State must be permitted or required by this Act.

2. Information. The document must contain the information required by this Act.

3. Form; format. The document must be legibly typewritten or printed in ink or, if electronically transmitted, it must be in a format that can be retrieved or reproduced in typewritten or printed form.

4. English language. The document must be in the English language, except that:

A. A corporate name need not be in English if written using the Roman alphabet or Arabic or Roman numerals; and

B. The certificate of existence required of foreign corporations under section 130 need not be in English if accompanied by a reasonably authenticated English translation.

5. Executed. The document must be executed and dated:

A. By the chair of the board of directors of a domestic or foreign corporation, by its president or by another of its officers;

B. By an incorporator, if directors have not been selected or the corporation has not been formed;

C. By a fiduciary, if the corporation is in the hands of a receiver, trustee or other court-appointed fiduciary; or

D. By the clerk of the corporation.

6. Signature; corporate seal. The person executing the document shall sign it and state beneath or opposite that signature the person's name and the capacity in which the person signs. The document may but need not contain a corporate seal, attestation, acknowledgment or verification.

7. Prescribed form. If the Secretary of State has prescribed a mandatory form for the document under section 122, the document must be in or on the prescribed form.

8. Delivery. The document must be delivered to the office of the Secretary of State for filing. Delivery may be made by electronic transmission if and to the extent permitted by the Secretary of State.

9. Fee. At the time of delivery, the correct filing fee and any reinstatement fee or penalty must be paid or provision for payment made in a manner permitted by the Secretary of State.

10. Extrinsic facts. This subsection applies whenever a provision of this Title permits any of the terms of a plan or a filed document to be dependent on facts objectively ascertainable outside the plan or filed document.

A. The manner in which the facts will operate upon the terms of the plan or filed document must be set forth in the plan or filed document.

B. The facts upon which the terms of a plan or filed document depend may include, but are not limited to:

(1) Any of the following that is available in a nationally recognized news or information medium either in print or electronically:

(a) Statistical or market indices;

(b) Market prices of any security or group of securities;

(c) Interest rates;

(d) Currency exchange rates; or

(e) Similar economic or financial data;

(2) A determination or action by any person or body, including the corporation or any other party to a plan or filed document; or

(3) The terms of, or actions taken under, an agreement to which the corporation is a party or any other agreement or document.

C. As used in this subsection:

(1) "Filed document" means a document filed with the Secretary of State under any provision of this Title except chapter 15 or section 1621; and

(2) "Plan" means a plan of domestication, nonprofit conversion, entity conversion, merger or share exchange.

D. The following provisions of a plan or filed document may not be made dependent on facts outside the plan or filed document:

(1) The name and address of any person required in a filed document;

(2) The registered office of any entity required in a filed document;

(3) The clerk or registered agent of any entity required in a filed document;

(4) The number of authorized shares and designation of each class or series of shares;

(5) The effective date of a filed document; and

(6) Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given.

E. If a provision of a filed document is made dependent on a fact ascertainable outside of the filed document, and that fact is not ascertainable by reference to a source described in paragraph B, subparagraph (1) or a document that is a matter of public record, or the affected shareholders have not received notice of the fact from the corporation, then the corporation shall file with the Secretary of State articles of amendment setting forth the fact promptly after the time when the fact referred to is first ascertainable or changes. Articles of amendment under this paragraph are deemed to be authorized by the authorization of the original filed document or plan to which they relate and may be filed by the corporation without further action by the board of directors or the shareholders.

Sec. B-34. 13-C MRSA §123, sub-§1, ¶¶H and I, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

H. For a notice of change in the name of the current clerk or registered agent or a change of a registered office for each affected corporation not to exceed a total of 100, the fee is $20.

I. For a notice of change in the name of the current clerk or registered agent or a change of a registered office for each affected corporation in excess of 100, the fee is $10.

Sec. B-35. 13-C MRSA §123, sub-§1, ¶¶DD, GG and LL, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

DD. For an annual report or amended annual report, the fee is $60.

GG. For a certificate of existence ~~or,~~ authorization or fact, the fee is $30.

LL. For an application for termination of an assumed or fictitious name, the fee is $20.

Sec. B-36. 13-C MRSA §123, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

2. Service of process fee. The Secretary of State shall collect a fee of $20 each time process is served on the Secretary of State under this ~~Act~~ Title. The party to a proceeding causing service of process is entitled to recover this fee as costs if that party prevails in the proceeding.

Sec. B-37. 13-C MRSA §126, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

2. Method of correcting documents. A domestic or foreign corporation may correct a document by preparing articles of correction that:

A. Describe the document, including its filing date~~, or attach a copy of it to the articles~~;

B. Specify the inaccuracy or defect to be corrected; ~~and~~

C. Correct the inaccuracy or defect~~.~~; and

D. Provide the jurisdiction of incorporation and the date on which the foreign corporation was authorized to transact business in this State.

The domestic or foreign corporation shall deliver the articles of correction to the Secretary of State for filing.

Sec. B-38. 13-C MRSA §130, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

§130. Certificate of existence; certificate of authority; certificate of fact

1. Application. Any person may apply to the Secretary of State to furnish a certificate of existence for a domestic corporation or a certificate of authority for a foreign corporation.

2. Contents. A certificate of existence or certificate of authority sets forth:

A. The domestic corporation's corporate name or the foreign corporation's corporate name used in this State;

B. That, if a domestic corporation, the corporation is duly incorporated under the laws of this State and the date of its incorporation;

C. That, if a foreign corporation, the foreign corporation is authorized to transact business in this State, the date on which the corporation was authorized to transact business in this State and its jurisdiction of incorporation;

D. That all fees and penalties owed to this State have been paid if:

(1) Payment is reflected in the records of the Secretary of State; and

(2) Nonpayment affects the existence or authorization of the domestic or foreign corporation;

E. That the corporation's most recent annual report required by section 1621 has been delivered to the Secretary of State;

F. That, if the corporation is a domestic corporation, articles of dissolution relating to that corporation have not been filed; and

G. Other facts of record in the office of the Secretary of State that may be requested by the applicant under subsection 1.

3. Evidence of existence or authority. Subject to any qualification stated in the certificate, a certificate of existence or certificate of authority issued by the Secretary of State may be relied upon as conclusive evidence that the domestic or foreign corporation is in existence or is authorized to transact business in this State.

Sec. B-39. 13-C MRSA §130, sub-§4 is enacted to read:

4. Certificate of fact. In addition to a certificate authorized under subsection 2, the Secretary of State may issue a certificate attesting to any fact of record in the office of the Secretary of State that may be requested by the applicant under subsection 1.

Sec. B-40. 13-C MRSA §§142 and 143 are enacted to read:

§142. Access to Secretary of State's database

The Secretary of State may provide public access to the database of the Department of the Secretary of State through a dial-in modem, public terminals and electronic duplicates of the database. If access to the database is provided to the public, the Secretary of State may adopt rules to establish a fee schedule and governing procedures. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§143. Publications

1. Informational publications. The Secretary of State may establish by rule a fee schedule to cover the cost of printing and distribution of publications and to set forth the procedures for the sale of these publications. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

2. Funds; fees deposited. All fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State for the purpose of replacing and updating publications offered in accordance with this Title and for funding new publications.

Sec. B-41. 13-C MRSA §202, sub-§1, ¶¶B to D, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

B. The number of shares the corporation is authorized to issue and, if there are 2 or more classes of shares, the number of shares and a description of the rights in each class, as provided in section 601, subsection 1;

C. The street address and a mailing address, if different, of the corporation's initial registered office and the name of its initial clerk at that office. For the address, a post office box alone is not sufficient to meet the requirements of this paragraph; and

D. The name and address of each incorporator~~; and~~.

Sec. B-42. 13-C MRSA §202, sub-§1, ¶E, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is repealed.

Sec. B-43. 13-C MRSA §202, sub-§6 is enacted to read:

6. Extrinsic facts. Provisions of the articles of incorporation may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with section 121, subsection 10.

Sec. B-44. 13-C MRSA §301, sub-§1, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

1. Purpose of engaging in lawful business. A corporation ~~incorporated under~~ subject to this Act has the purpose of engaging in any lawful business unless a more limited purpose is set forth in the articles of incorporation.

Sec. B-45. 13-C MRSA §401, sub-§2, ¶¶A and C, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

A. The name of a corporation, nonprofit corporation, limited liability company, limited liability partnership or limited partnership that is incorporated, organized or authorized to transact business or carry on activities in this State;

C. Marks registered under Title 10, chapter 301-A unless the registered owner or holder of the mark is the same person or entity as the corporation seeking to use a name that is not distinguishable on the records of the Secretary of State and files proof of ownership with the Secretary of State.

Sec. B-46. 13-C MRSA §401, sub-§6, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

6. Determining distinguishability. In determining whether names are "distinguishable on the records," the Secretary of State shall disregard the following:

A. The words or abbreviations of words that describe the nature of the entity, including "professional association," "corporation," "company," "incorporated," "chartered," "limited," "limited partnership," "limited liability company," "professional limited liability company," "limited liability partnership," "registered limited liability partnership," "service corporation" or "professional corporation";

B. The presence or absence of the words or symbols of the words "and," and "the" ~~and "a"~~; and

C. The differences in the use of punctuation, capitalization or special characters~~; and~~.

~~D. The differences in the uses of singular and plural forms of words.~~

Sec. B-47. 13-C MRSA §401, sub-§7 is enacted to read:

7. Change of corporate name by foreign corporation. If a foreign corporation authorized to transact business in this State changes its corporate name to one that does not satisfy the requirements of this section, the foreign corporation may not transact business in this State under the proposed new name until it adopts a name satisfying the requirements of this section and files an amended application for authority under section 1504 that is accompanied by a statement of use of a fictitious name under section 404.

Sec. B-48. 13-C MRSA §403, sub-§2, ¶B, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

B. Is accompanied by a certificate of existence or a document of similar import duly authenticated by the ~~Secretary of State~~ secretary of state or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated. ~~Such~~ The certificate of existence ~~shall~~ must have been made not more than 90 days prior to the delivery of the application for filing.

Sec. B-49. 13-C MRSA §403, sub-§5, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

5. Qualify as foreign corporation. A foreign corporation whose registration is effective may, after the registration is effective, qualify as a foreign corporation under the registered name or may consent in writing to the use of that name by a corporation ~~incorporated under~~ subject to this Act or by another foreign corporation authorized to transact business in this State. The registration terminates when the domestic corporation is incorporated or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name.

Sec. B-50. 13-C MRSA §404, sub-§1, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

1. Assumed name; defined. As used in this section, "assumed name" includes a trade name, the name of a division not separately incorporated and not used in conjunction with the ~~true~~ real corporate name and any name other than the ~~true~~ real name of a corporation, except a fictitious name.

Sec. B-51. 13-C MRSA §404, sub-§4, ¶¶A, C and D, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

A. The corporate name ~~and the address of its registered office~~;

C. The assumed or fictitious name that it proposes to use; ~~and~~

D. If the assumed ~~or fictitious~~ name is not to be used at all of the corporation's places of business in this State, the locations where it will be used~~.~~; and

Sec. B-52. 13-C MRSA §404, sub-§4, ¶E is enacted to read:

E. If the corporation is a foreign corporation:

(1) The jurisdiction of incorporation; and

(2) The date on which it was authorized to transact business in this State.

Sec. B-53. 13-C MRSA §404, sub-§8, ¶A, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

A. The name of the corporation ~~and the address of its registered office~~;

Sec. B-54. 13-C MRSA §501, sub-§§1 and 2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

1. Clerk. Each domestic corporation to which this Act applies shall maintain in this State a clerk, who is a natural person resident in this State. The clerk may be, but is not required to be, one of the directors or officers of the corporation, or the clerk may be a person holding no other position with the corporation. The clerk must be appointed by the corporation's board of directors unless the articles of incorporation reserve appointment of the clerk to the shareholders. The clerk of a corporation is not an officer but performs the functions provided in this Act. The duties of the clerk are ministerial only, and the clerk is not liable in that capacity for any liabilities of the corporation, including, but not limited to, debts, claims, taxes, fines or penalties. Unless otherwise provided by the bylaws, the clerk shall keep on file a list of all shareholders of the corporation and keep, in a book kept for that purpose, the records of all shareholders' meetings, including all records of all votes and minutes of the meetings. These records may be kept by the clerk at the registered office or another office of the corporation to which the clerk has ready access. The clerk may certify all votes, resolutions and actions of the shareholders and may certify all votes, resolutions and actions of the corporation's board of directors and its committees.

2. Registered office. The clerk shall maintain a registered office at some fixed place within this State, which may be, but need not be, the corporation's place of business. ~~The clerk shall perform those duties required of the clerk elsewhere in this Act.~~

Sec. B-55. 13-C MRSA §501, sub-§§5, 7 and 10, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

5. Resignation of clerk. The clerk of a corporation may resign upon filing a written notice of the resignation with the Secretary of State and by mailing a copy of the notice to ~~the president or treasurer~~ any officer of the corporation or, if ~~both of those offices are vacant~~ there are no officers, to any of the corporation's directors or, if there are no directors, to any of the corporation's shareholders. The notice filed with the Secretary of State must recite that a copy of the notice has been mailed to the ~~corporate officer~~ individual designated in this subsection and must specify the ~~corporate officer's~~ name ~~and~~, the corporate office held and the address to which the notice was mailed. The resignation takes effect upon the filing of the resignation by the Secretary of State.

7. Name or address change. If the name of the current clerk or address of the registered office ~~of the clerk~~ of one or more corporations changes from the name of the current clerk or address of the registered office appearing on the record in the office of the Secretary of State, the clerk shall execute and deliver for filing, in accordance with section 121, a statement setting forth:

A. The name of the clerk appearing on the record in the office of the Secretary of State;

B. If the current clerk has had a name change, the new name of the clerk;

C. The address of the registered office appearing on the record in the office of the Secretary of State;

D. If the address of the registered office has changed, the address of the new registered office, including the street address and a mailing address, if different. For the address, a post office box alone is not sufficient to meet the requirements of this paragraph;

E. The ~~names~~ name of each ~~of the corporations of which the clerk is clerk~~ corporation affected by the change as provided in this subsection; and

F. A recitation that states that a notice of the change has been sent to each of the corporations.

In lieu of the bulk filing, the clerk may file for each such corporation a separate statement containing the information.

10. Document filed to change clerk. Any document to be filed by the Secretary of State, the effect of which is to change the clerk, must be signed by the person designated in the document as the new clerk or in accordance with subsection 3 and section 121, subsection 5, paragraph A, B or C.

Sec. B-56. 13-C MRSA §§601 and 602, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

§601. Authorized shares

1. Classes and number of shares authorized. A corporation's articles of incorporation must ~~prescribe the~~ set forth any classes of shares and series of shares within a class, and the number of shares of each class and series that the corporation is authorized to issue. If more than one class or series of shares is authorized, the articles of incorporation must prescribe a distinguishing designation for each class or series and must describe, prior to the issuance of shares of a class or series, the terms, including the preferences, rights and limitations ~~and relative rights~~ of that class ~~must be described in the articles of incorporation~~ or series. ~~All~~ Except to the extent varied as permitted by this section, all shares of a class or series must have terms, including preferences, rights and limitations ~~and relative rights~~ that are identical with those of other shares of the same class~~, except to the extent otherwise permitted by section 602~~ or series.

2. Voting rights authorized. A corporation's articles of incorporation must authorize one or more classes or series of shares that together have unlimited voting rights and one or more classes or series of shares, which may be the same class or classes or series as those with voting rights, that together are entitled to receive the net assets of the corporation upon dissolution.

3. Designations, preferences, limitations and relative rights. A corporation's articles of incorporation may authorize one or more classes or series of shares that:

A. Have special, conditional or limited voting rights or no right to vote, except to the extent ~~prohibited~~ otherwise provided by this Act;

B. Are redeemable or convertible as specified in the articles of incorporation:

(1) At the option of the corporation, the shareholder or another person or upon the occurrence of a ~~designated~~ specified event;

(2) For cash, indebtedness, securities or other property; ~~or~~ and

(3) ~~In a designated amount or in an amount~~ At prices and in amounts specified, or determined in accordance with a ~~designated~~ formula ~~or by reference to extrinsic data or events~~;

C. Entitle the holders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative or partially cumulative; or

D. Have preference over any other class or series of shares with respect to distributions, including ~~dividends and~~ distributions upon the dissolution of the corporation.

The description of the designations, preferences, limitations, and relative rights of share classes in this subsection is not exhaustive.

4. Rules of construction for preferred shares. Unless otherwise provided by this Act or by a corporation's articles of incorporation or by resolution of the board of directors in the case of shares whose terms may be fixed as provided by section 602:

A. Shares that are preferred as to dividends are deemed cumulative preferred shares;

B. Shares that are preferred as to dividends are not entitled to participate in dividends beyond the amount of the stated dividend preference;

C. Shares that are preferred as to dividends are preferred, on liquidation of the corporation, to the extent of the par or stated value of the shares, if any;

D. Shares that are preferred as to liquidation are not entitled to participate in liquidation payments beyond the amount of the liquidation preference stated in the articles of incorporation or implied under paragraph C;

E. If preferred shares cumulative as to dividends are entitled to a preferential payment on liquidation, the payment must also include the amount of dividends accrued but unpaid as of the date of liquidation;

F. Shares that are preferred as to dividends or as to payments upon liquidation are not entitled to vote; and

G. "Liquidation," "rights upon liquidation" and terms of like import shall refer to the formal dissolution of the corporation. Sale of all the corporate assets or participation of the corporation in a

merger or consolidation is not deemed a liquidation.

This subsection does not apply to shares already issued or authorized on December 31, 1971.

5. Extrinsic facts. Terms of shares may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with section 121, subsection 10.

6. Variations among holders. Any of the terms of shares may vary among holders of the same class or series of shares as long as the variations are expressly set forth in the articles of incorporation.

§602. Terms of class or series determined by board of directors

1. Determination by board of directors. If a corporation's articles of incorporation provide, the board of directors ~~may determine, in whole or part, the preferences, limitations and relative rights within the limits set forth in section 601 of any class of shares before the issuance of any shares of that class or one or more series within a class before the issuance of any shares of that series.~~ is authorized without shareholder approval to:

A. Classify any unissued shares into one or more classes or into one or more series within a class;

B. Reclassify any unissued shares of any class into one or more classes or into one or more series within one or more classes; or

C. Reclassify any unissued shares of any series of any class into one or more classes or into one or more series within a class.

~~**2. Series must have distinguishing designation.** Each series of a class must be given a distinguishing designation.~~

2-A. Terms fixed before issuance. If the board of directors acts pursuant to subsection 1, the board shall determine the terms including the preferences, rights and limitations to the same extent permitted under section 601, of:

A. Any class of shares before the issuance of any shares of that class; or

B. Any series within a class before the issuance of any shares of that series.

~~**3. Identical terms.** A share of a series must have preferences, limitations and relative rights identical with those of all other shares of the same series and, except to the extent otherwise provided in the description of the series, with those of other series of the same class.~~

3-A. Filing articles of amendment. Before issuing any shares of a class or series created under this section, the corporation shall deliver to the Secretary of State for filing articles of amendment setting forth the terms authorized under subsection 1.

~~**4. Filing articles of amendment.** Before issuing any shares of a class or series created under this section, the corporation shall deliver to the Secretary of State for filing articles of amendment, which are effective without shareholder action, that set forth:~~

~~A. The name of the corporation;~~

~~B. The text of the amendment determining the terms of the class or series of shares;~~

~~C. The date the amendment was adopted; and~~

~~D. A statement that the amendment was duly adopted by the board of directors.~~

Sec. B-57. 13-C MRSA §625, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is repealed and the following enacted in its place:

§625. Share options

1. Board authority to issue options. A corporation may issue rights, options or warrants for the purchase of shares or other securities of the corporation. The corporation's board of directors shall determine:

A. The terms upon which the rights, options or warrants are issued; and

B. The terms including the consideration for which the shares or other securities are issued.

The authorization by the board of directors for the corporation to issue these rights, options or warrants constitutes authorization of the issuance of the shares or other securities for which the rights, options or warrants are exercisable.

2. Limitations based on holdings. The terms and conditions of these rights, options or warrants, including those outstanding on the effective date of this section, may include, without limitation, restrictions or conditions that:

A. Preclude or limit the exercise, transfer or receipt of these rights, options or warrants by any person or persons owning or offering to acquire a specified number or percentage of the outstanding shares or other securities of the corporation or by any transferee of the person; or

B. Invalidate or void these rights, options or warrants held by the person or the transferee.

Sec. B-58. 13-C MRSA §641, sub-§4 is enacted to read:

4. Preemptive rights. Nothing in this section detracts from or takes away the preemptive rights that pertained to any shares of a corporation that were issued and outstanding on June 30, 2003. The rights may be altered by an amendment adopted pursuant to chapter 10.

Sec. B-59. 13-C MRSA §703, sub-§1, ¶B, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

B. On application of a shareholder who signed a demand for a special meeting valid under section 702 if:

(1) Notice of the special meeting was not given within 30 days after the date the demand was delivered to the ~~corporation's secretary~~ corporation clerk; or

(2) The special meeting was not held in accordance with the notice required by section 705, subsection 3.

Sec. B-60. 13-C MRSA §723, sub-§5, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

5. Death or incapacity of shareholder. The death or incapacity of a shareholder who appointed a proxy does not affect the right of a corporation to accept the proxy's authority unless notice of the death or incapacity is received by the ~~secretary~~ clerk or ~~other~~ an officer or agent authorized to tabulate votes before the proxy exercises the proxy's authority under the appointment.

Sec. B-61. 13-C MRSA §727, sub-§1, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

1. Quorum. Shares entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those shares exists with respect to that matter. Unless the corporation's articles of incorporation or this Act provides ~~otherwise~~ for a greater or lesser quorum, a majority of the votes entitled to be cast on the matter by the voting group constitutes a quorum of that voting group for action on that matter. A quorum may not consist of less than 1/3 of the shares of a voting group entitled to vote on a matter.

Sec. B-62. 13-C MRSA §731, sub-§3, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

3. Clerk; officer; employee. An inspector may be the clerk or an officer or employee of the corporation.

Sec. B-63. 13-C MRSA §743, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

2. Requirements for shareholder agreement. An agreement authorized by this section must comply with each of the following paragraphs.

A. The agreement must be set forth:

(1) In the articles of incorporation or bylaws and approved by all persons who are shareholders at the time of the agreement; or

(2) In a written agreement that is signed by all persons who are shareholders at the time of the agreement and is made known to the corporation.

B. The agreement must be subject to amendment only by all persons who are shareholders at the time of the amendment, unless the agreement provides otherwise or unless the amendment is governed by subsection 8.

~~C. The agreement must be valid for an unlimited term, unless the agreement provides otherwise.~~

An agreement authorized by this section is valid for an unlimited term unless the agreement provides otherwise.

Sec. B-64. 13-C MRSA §808, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

2. Votes needed to remove. If cumulative voting is authorized, a director may not be removed if the number of votes sufficient to elect that director under cumulative voting is voted against the removal of that ~~director's removal~~ director. If cumulative voting is not authorized, a director may be removed only by the affirmative vote of at least 2/3 of the shares entitled to vote on the removal. The corporation's articles of incorporation may require a greater or lesser vote in order to remove directors but not less than a majority of votes cast, including, but not limited to, the necessity of a unanimous vote of shareholders or relevant voting group.

Sec. B-65. 13-C MRSA §824, sub-§3, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

3. Waiver by absent director. If a meeting otherwise valid of the corporation's board of directors is held without call or notice when a notice is required,

~~any action taken at the meeting is deemed ratified~~ any defects of notice are deemed waived by a director who did not attend unless~~, after learning of the action taken and of the impropriety of the meeting, the director makes prompt objection to the action taken~~ within 10 days after learning of the meeting and actions taken at the meeting the director delivers to the corporation written objection to the transacting of business at the meeting.

Sec. B-66. 13-C MRSA §825, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

2. Lower quorum permitted. The corporation's articles of incorporation or bylaws may authorize a quorum of a corporation's board of directors to consist of ~~no fewer~~ not less than 1/3 of the fixed or prescribed number of directors determined under subsection 1.

Sec. B-67. 13-C MRSA §846, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is repealed.

Sec. B-68. 13-C MRSA §§852, 854 to 857 and 859, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

§852. Permissible indemnification

1. Standards of conduct. Except as otherwise provided in this section, a corporation may indemnify an individual who is a party to a proceeding because that individual is a director of the corporation against liability incurred in the proceeding if:

A. The ~~individual's conduct was in good faith and the individual reasonably believed~~ following criteria are met:

(1) ~~In the case of conduct in the individual's capacity as director, that the~~ The individual's conduct was in ~~the best interests of the corporation~~ good faith;

(2) ~~In all other cases, that the individual's conduct was at least not opposed to the best interests of the corporation; and~~ The individual reasonably believed:

(a) In the case of conduct in the individual's official capacity, that the individual's conduct was in the best interests of the corporation; and

(b) In all other cases, that the individual's conduct was at least not opposed to the best interests of the corporation; and

(3) In the case of any criminal proceeding, the individual had no reasonable cause to believe the individual's conduct was unlawful; or

B. The individual engaged in conduct for which broader indemnification has been made permissible or obligatory under a provision of the corporation's articles of incorporation as authorized by section 202, subsection 2, paragraph E.

2. Employee benefit plan. The conduct of a director with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in, and the beneficiaries of, the plan is conduct that satisfies the requirement of subsection 1, paragraph A, subparagraph (2), division (b).

3. Termination of proceeding. The termination of a proceeding by judgment, order, settlement or conviction or upon a plea of nolo contendere or its equivalent is not of itself determinative that the director did not meet the relevant standard of conduct described in this section.

4. Limits. Unless ordered by a court under section 855, subsection 1, paragraph C, a corporation may not indemnify one of ~~its~~ the corporation's directors:

A. In connection with a proceeding by or in the right of the corporation, except for reasonable expenses incurred in connection with the proceeding if it is determined that the director has met the relevant standard of conduct under subsection 1; or

B. In connection with any proceeding with respect to conduct for which the director was adjudged liable on the basis that the director received a financial benefit to which the director was not entitled, whether or not involving action in the director's official capacity.

§854. Advance for expenses

1. Conditions. A corporation may, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding because the director is a director of that corporation if the director delivers to the corporation:

A. A written affirmation of the director's good faith belief that the director has met the relevant standard of conduct described in section 852, subsection 1 or that the proceeding involves conduct for which liability has been eliminated under a provision of the corporation's articles of incorporation as authorized by section 202, subsection 2, paragraph D; and

B. The director's written undertaking to repay any funds advanced if the director is not entitled to mandatory indemnification under section 853 and it is ultimately determined under section 855 or 856 that the director has not met the relevant standard of conduct described in section 852.

2. Repayment obligation. The undertaking required by subsection 1, paragraph B must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

3. Authorization process. Authorizations under this section ~~must~~ may be made:

A. By the corporation's board of directors:

(1) If there are 2 or more disinterested directors, by a majority vote of all the disinterested directors, a majority of whom for this purpose constitutes a quorum, or by a majority of the members of a committee of 2 or more disinterested directors appointed by a majority vote of all the disinterested directors; or

(2) If there are fewer than 2 disinterested directors, by the vote necessary for action by the corporation's board of directors in accordance with section 825, subsection 3, in which authorization directors who do not qualify as disinterested directors may participate; or

B. By the shareholders, but shares owned by or voted under the control of a director who at the time does not qualify as a disinterested director may not be voted on the authorization.

§855. Court-ordered indemnification; advance for expenses

1. Application and order. A director who is a party to a proceeding because ~~that~~ the director is a director of the corporation may apply for indemnification or an advance for expenses to the court conducting the proceeding or to another court of competent jurisdiction. After receipt of an application and after giving any notice the court considers necessary, the court shall:

A. Order indemnification if the court determines that the director is entitled to mandatory indemnification under section 853;

B. Order indemnification or an advance for expenses if the court determines that the director is entitled to indemnification or an advance for expenses pursuant to a provision authorized by section 859, subsection 1; or

C. Order indemnification or an advance for expenses if the court determines, in view of all the relevant circumstances, that it is fair and reasonable:

(1) To indemnify the director; or

(2) To advance expenses to the director even if the director has not met the relevant standard of conduct set forth in section 852, subsection 1, failed to comply with section 854 or was adjudged liable in a proceeding referred to in section 852, subsection 4, paragraph A or B, but, if the director was adjudged so liable, the director's indemnification must be limited to reasonable expenses incurred in connection with the proceeding.

2. Entitlement to expenses. If the court determines that the director is entitled to indemnification under subsection 1, paragraph A or to indemnification or an advance for expenses under subsection 1, paragraph B, the court shall also order the corporation to pay the director's reasonable expenses incurred in connection with obtaining the court-ordered indemnification or advance for expenses. If the court determines that the director is entitled to indemnification or an advance for expenses under subsection 1, paragraph C, the court may also order the corporation to pay the director's reasonable expenses ~~to obtain~~ incurred in connection with obtaining the court-ordered indemnification or advance for expenses.

§856. Determination and authorization of indemnification

1. Prerequisites to indemnity. A corporation may not indemnify a director under section 852, subsection 1 unless authorized for a specific proceeding after a determination has been made that indemnification of the director is permissible because the director has met the relevant standard of conduct set forth in section 852.

2. Determination process. A determination under subsection 1 that indemnification is permissible must be made:

A. If there are 2 or more disinterested directors, by the corporation's board of directors by a majority vote of all the disinterested directors, a majority of whom for this purpose constitutes a quorum, or by a majority of the members of a committee of 2 or more disinterested directors appointed by a majority vote of all the disinterested directors;

B. By special legal counsel:

(1) Selected in the manner prescribed in paragraph A; or

(2) If there are fewer than 2 disinterested directors, selected by the corporation's board of directors in which selection directors who do not qualify as disinterested directors may participate; or

C. By the shareholders, but shares owned by or voted under the control of a director who at the time does not qualify as a disinterested director may not be voted on the determination.

3. Authorization process. Authorization of indemnification must be made in the same manner as the determination that indemnification is permissible, except that if there are fewer than 2 disinterested directors or if the determination is made by special legal counsel, authorization of indemnification must be made by those entitled under subsection 2, paragraph B, subparagraph (2) to select special legal counsel.

§857. Indemnification of officers

1. Permissible scope. A corporation may indemnify and advance expenses under this subchapter to an officer of the corporation who is a party to a proceeding because ~~that~~ the officer is an officer of the corporation:

A. To the same extent as a director; and

B. If the officer is an officer but not a director, to such further extent as may be provided by the corporation's articles of incorporation, the bylaws, a resolution of the corporation's board of directors or a contract except for:

(1) Liability in connection with a proceeding by or in the right of the corporation other than for reasonable expenses incurred in connection with the proceeding; or

(2) Liability arising out of conduct that constitutes:

(a) Receipt by the officer of a financial benefit to which the officer is not entitled;

(b) An intentional infliction of harm on the corporation or the shareholders; or

(c) An intentional violation of criminal law.

2. Dual capacity. Subsection 1, paragraph B applies to an officer who is also a director if the basis on which the officer is made a party to the proceeding is an act or omission solely as an officer.

3. Mandatory indemnification. An officer who is not a director is entitled to mandatory indemnification under section 853 and may apply to a court under section 855 for indemnification or an advance for expenses, in each case to the same extent to which a director may be entitled to indemnification or an advance for expenses under those provisions.

§859. Variation by corporate action; application of subchapter

1. Undertakings to indemnify. A corporation may, by a provision in its articles of incorporation or bylaws or in a resolution adopted or a contract approved by its board of directors or shareholders, obligate itself in advance of the act or omission giving rise to a proceeding to provide indemnification in accordance with section 852 or advance funds to pay for or reimburse expenses in accordance with section 854. ~~Any such~~ Such an obligatory provision is deemed to satisfy the requirements for authorization referred to in sections 854, subsection 3 and 856, subsection 3. Any such provision that obligates the corporation to provide indemnification to the fullest extent permitted by law is deemed to obligate the corporation to advance funds to pay for or reimburse expenses in accordance with section 854 to the fullest extent permitted by law, unless the provision specifically provides otherwise.

2. Predecessors. ~~Any~~ A provision pursuant to subsection 1 may not obligate the corporation to indemnify or advance expenses to a director of a predecessor of the corporation pertaining to conduct with respect to the predecessor unless otherwise specifically provided. ~~Any~~ A provision for indemnification or an advance for expenses in the corporation's articles of incorporation or bylaws or a resolution of the corporation's board of directors or shareholders of a predecessor of the corporation in a merger or in a contract to which the predecessor is a party, existing at the time the merger takes effect, is governed by section 1107, subsection 1, paragraph D.

3. Limits. A corporation may, by a provision in its articles of incorporation, limit ~~any of~~ the rights to indemnification or an advance for expenses created by or pursuant to this subchapter.

4. Witness expenses. This subchapter does not limit a corporation's power to pay or reimburse expenses incurred by a director or an officer in connection with the director's or officer's appearance as a witness in a proceeding at a time when the director or officer is not a party to the proceeding.

5. Insurance. This subchapter does not limit a corporation's power to indemnify, advance expenses to or provide or maintain insurance on behalf of an employee or agent.

Sec. B-69. 13-C MRSA §872, sub-§2, ¶¶A and B, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

A. ~~The directors'~~ Directors' action respecting the transaction was at any time taken in compliance with section 873;

B. ~~The shareholders'~~ Shareholders' action respecting the transaction was at any time taken in compliance with section 874; or

Sec. B-70. 13-C MRSA §873, sub-§1, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

1. Action respecting transaction. ~~A directors'~~ Directors' action respecting a transaction is effective for purposes of section 872, subsection 2, paragraph A if the transaction received the affirmative vote of a majority, but no fewer than 2, of those qualified directors on the corporation's board of directors or on a duly empowered committee of the board of directors who voted on the transaction after either required disclosure to them, to the extent the information was not known by them, or compliance with subsection 2, except that action by a committee is effective under this section only if:

A. All of the committee's members are qualified directors; and

B. The committee's members are either all the qualified directors on the board or are appointed by the affirmative vote of a majority of the qualified directors on the board.

Sec. B-71. 13-C MRSA §873, sub-§3, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

3. Quorum. A majority, but no fewer than 2, of all the qualified directors on the corporation's board of directors or on a committee of the corporation's board of directors, constitutes a quorum for purposes of action that complies with this section. ~~The directors'~~ Directors' action that otherwise complies with this section is not affected by the presence or vote of a director who is not a qualified director.

Sec. B-72. 13-C MRSA §874, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

2. Qualified shares. For purposes of this section, "qualified shares" means any shares entitled to vote with respect to the director's conflicting-interest transaction except shares that, to the knowledge, before the vote, of the clerk, the secretary or other officer or agent of the corporation authorized to tabulate votes, are beneficially owned or the voting of which is controlled by a director who has a conflicting interest respecting the transaction or by a related person of the director, or both.

Sec. B-73. 13-C MRSA §874, sub-§4, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

4. Identification of holdings. For purposes of compliance with subsection 1, a director who has a conflicting interest respecting the transaction shall, before the shareholders' vote, inform the secretary or other officer or agent of the corporation authorized to tabulate votes of the number of all shares and the identity of persons holding or controlling the vote of all shares that the director knows are beneficially owned or the voting of which is controlled by the director or by a related person of the director, or both.

Sec. B-74. 13-C MRSA §921, sub-§5, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

5. Transitional rule. If any debt security, note or similar evidence of indebtedness for money borrowed, whether secured or unsecured, or a contract of any kind issued, incurred or executed by a domestic business corporation before July 1, 2003 contains a provision applying to a merger of the corporation and the document does not refer to a domestication of the corporation, the provision is deemed to apply to a domestication of the corporation until ~~such time after that date as~~ the provision is amended.

Sec. B-75. 13-C MRSA §921, sub-§6 is enacted to read:

6. Extrinsic facts. Terms of a plan of domestication may be made dependent upon facts objectively ascertainable outside the plan in accordance with section 121, subsection 10.

Sec. B-76. 13-C MRSA §922, sub-§7, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

7. Transitional rule. If any provision of the corporation's articles of incorporation or bylaws or of an agreement to which any of the directors or shareholders are parties, adopted or entered into before July 1, 2003, applies to a merger of the corporation and that document does not refer to a domestication of the corporation, the provision is deemed to apply to a domestication of the corporation until ~~such time after that date as~~ the provision is amended.

Sec. B-77. 13-C MRSA §922, sub-§8 is enacted to read:

8. Consent of shareholders. A plan of domestication may be approved for a participating corporation by written consent of shareholders entitled to vote, as provided in section 704. If the plan of domestication is approved by written consent of all shareholders, whether or not entitled to vote, a resolution of the board of directors of the participating corporation approving, proposing, submitting, recommending or otherwise respecting the plan of domestication is not necessary and shareholders of the participating corporation are not entitled to receive notice of or to dissent from the plan of domestication.

Sec. B-78. 13-C MRSA §926, sub-§1, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

1. Abandonment of domestication by domestic business corporation. Unless otherwise provided in a plan of domestication of a domestic business corporation, after the plan has been adopted and approved as required by this subchapter and at any time before the domestication has become effective, it may be abandoned by the corporation's board of directors without action by the shareholders.

If a domestication is abandoned under this subsection after articles of charter surrender have been filed with the Secretary of State but before the domestication has become effective, a statement that the domestication has been abandoned in accordance with this section, executed by an officer or other duly authorized representative ~~or~~ of the corporation, must be delivered to the Secretary of State for filing prior to the effective date of the domestication. The statement takes effect upon filing, and the domestication is considered abandoned and does not become effective.

Sec. B-79. 13-C MRSA §931, sub-§5, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

5. Transitional rule. If any debt security, note or similar evidence of indebtedness for money borrowed, whether secured or unsecured, or a contract of any kind issued, incurred or executed by a domestic business corporation before July 1, 2003 contains a provision applying to a merger of the domestic business corporation and the document does not refer to a nonprofit conversion of the domestic business corporation, the provision is deemed to apply to a nonprofit conversion of the domestic business corporation until ~~such time after that date as~~ the provision is amended.

Sec. B-80. 13-C MRSA §931, sub-§6 is enacted to read:

6. Extrinsic facts. Terms of a plan of nonprofit conversion may be made dependent upon facts objectively ascertainable outside the plan in accordance with section 121, subsection 10.

Sec. B-81. 13-C MRSA §932, sub-§§5 and 7, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

5. Majority approval. Unless the corporation's articles of incorporation or its board of directors acting pursuant to subsection 3 requires a greater vote, approval of the plan of nonprofit conversion requires the approval of the shareholders by a majority of all the votes entitled to be cast on the plan by the shareholders and, if any class or series is entitled to vote as a separate voting group on the plan, the approval of each such separate voting group by a majority of all the votes entitled to be cast on the plan by that voting group. The articles of incorporation may provide that the plan may be approved by a lesser vote of each voting group entitled to vote on the plan but in no case less than a majority of the votes cast by that voting group at a meeting at which there exists, for each such voting group, a quorum consisting of at least a majority of the votes entitled to be cast on the plan by each voting group entitled to vote on the plan;

7. Transitional rule. If any provision of the corporation's articles of incorporation or bylaws or of an agreement to which any of the directors or shareholders are parties, adopted or entered into before July 1, 2003, applies to a merger of the domestic business corporation and the document does not refer to a nonprofit conversion of the domestic business corporation, the provision is deemed to apply to a nonprofit conversion of the domestic business corporation until ~~such time after that date as~~ the provision is amended.

Sec. B-82. 13-C MRSA §932, sub-§8 is enacted to read:

8. Consent of shareholders. A plan of nonprofit conversion may be approved for a participating corporation by written consent of shareholders entitled to vote, as provided in section 704. If the plan of nonprofit conversion is approved by written consent of all shareholders, whether or not entitled to vote, a resolution of the board of directors of the participating corporation approving, proposing, submitting, recommending or otherwise respecting the plan of nonprofit conversion is not necessary and shareholders of the participating corporation are not entitled to receive notice of or to dissent from the plan of nonprofit conversion.

Sec. B-83. 13-C MRSA §933, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

2. Provisions of articles of nonprofit conversion. The articles of nonprofit conversion must either contain all the provisions that the Maine Nonprofit Corporation Act requires to be set forth in articles of incorporation of a domestic nonprofit corporation with any other desired provisions permitted by the Maine Nonprofit Corporation Act or have attached articles of incorporation that satisfy the requirements of the Maine Nonprofit Corporation Act. In either case, provisions that would not be required by ~~chapter 10~~ the Maine Nonprofit Corporation Act to be included in restated articles of incorporation of a domestic nonprofit corporation may be omitted.

Sec. B-84. 13-C MRSA §935, sub-§2, ¶A, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

A. Appoint the Secretary of State as its agent for service of process in a proceeding to enforce the rights of shareholders who exercise appraisal rights in connection with the conversion and that domestic business corporation shall provide a mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State; and

Sec. B-85. 13-C MRSA §942, sub-§4, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

4. Certificate of authority. If the foreign nonprofit corporation is authorized to ~~transact business~~ carry on activities in this State under the provisions of the Maine Nonprofit Corporation Act, its certificate of authority is cancelled automatically on the effective date of its domestication and conversion.

Sec. B-86. 13-C MRSA §952, sub-§§3 and 5, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

3. Entity conversion. A domestic unincorporated entity may become a domestic business corporation. Section 957 governs the effect of converting to a domestic business corporation. If the organic law of a domestic unincorporated entity does not provide procedures for the approval of an entity conversion, the conversion must be adopted and approved, and the entity conversion effectuated, in the same manner as a merger of the unincorporated entity, and its interest holders are entitled to appraisal rights if appraisal rights are available upon any type of merger under the organic law of the unincorporated entity. If the organic law of a domestic unincorporated entity does not provide procedures for the approval of either an entity conversion or a merger, a plan of entity conversion must be adopted and approved, the entity conversion effectuated and appraisal rights exercised in accordance with the procedures in this subchapter and chapter 13. Without limiting the provisions of this subsection, a domestic unincorporated entity whose organic law does not provide procedures for the approval of an entity conversion is subject to subsection 5 and section 954, subsection ~~7~~ 8. For purposes of applying this subchapter and chapter 13:

A. The unincorporated entity and its interest holders, interests and organic documents taken together are deemed to be a domestic business corporation and its shareholders, shares and articles of incorporation, respectively and vice versa, as the context may require; and

B. If the business and affairs of the unincorporated entity are managed by a group of persons that is not identical to the interest holders, that group is deemed to be the board of directors.

5. Transitional rule. If any debt security, note or similar evidence of indebtedness for money borrowed, whether secured or unsecured, or a contract of any kind issued, incurred or executed by a domestic business corporation before July 1, 2003, applies to a merger of the corporation and the document does not refer to an entity conversion of the corporation, the provision is deemed to apply to an entity conversion of the corporation until ~~such time after that date as~~ the provision is amended.

Sec. B-87. 13-C MRSA §953, sub-§3 is enacted to read:

3. Extrinsic facts. Terms of a plan of entity conversion may be made dependent upon facts objectively ascertainable outside the plan in accordance with section 121, subsection 10.

Sec. B-88. 13-C MRSA §954, sub-§§5 to 8, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

5. Majority approval. Unless the corporation's articles of incorporation or its board of directors acting pursuant to subsection 3 requires a greater vote, approval of the plan of entity conversion requires the approval of the shareholders at a meeting by a majority of all the votes entitled to be cast on the plan by ~~that~~ the shareholders, voting as a single voting group. The articles of incorporation may provide that the plan may be approved by a lesser vote of each voting group entitled to vote on the plan but in no case less than a majority of the votes cast by that voting group at a meeting at which there exists, for each such voting group, a quorum consisting of at least a majority of the votes entitled to be cast on the plan by each voting group entitled to vote on the plan;

6. Voting groups. In addition to the vote required under subsection 5, separate voting by voting groups is also required by each class or series of

shares. Unless the corporation's articles of incorporation or the board of directors acting pursuant to subsection 3 requires a greater vote or a greater number of votes to be present, if the corporation has more than one class or series of shares outstanding, approval of the plan of entity conversion requires the approval of each such separate voting group by a majority of the votes entitled to be cast on the conversion by that voting group. The articles of incorporation may provide that the plan may be approved by a lesser vote of each class or series of shares as provided in subsection 5;

7. Transitional rule. If any provision of the corporation's articles of incorporation or bylaws or of an agreement to which any of the directors or shareholders are parties, adopted or entered into before July 1, 2003, applies to a merger of the corporation and the document does not refer to an entity conversion of the corporation, the provision is deemed to apply to an entity conversion of the corporation until ~~such time after that date as~~ the provision is amended; ~~and~~

8. Written consent. If as a result of an entity conversion one or more shareholders of the corporation would become subject to owner liability for the debts, obligations or liabilities of any other person or entity, approval of the plan of conversion requires the execution by each such shareholder of a separate written consent to become subject to such owner liability~~.~~; and

Sec. B-89. 13-C MRSA §954, sub-§9 is enacted to read:

9. Consent of shareholders. A plan of entity conversion may be approved for a participating corporation by written consent of shareholders entitled to vote, as provided in section 704. If the plan of entity conversion is approved by written consent of all shareholders, whether or not entitled to vote, a resolution of the board of directors of the participating corporation approving, proposing, submitting, recommending or otherwise respecting the plan of entity conversion is not necessary and shareholders of the participating corporation are not entitled to receive notice of or to dissent from the plan of nonprofit conversion.

Sec. B-90. 13-C MRSA §955, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

2. Conversion to domestic business corporation. After the conversion of a domestic unincorporated entity to a domestic business corporation has been adopted and approved as required by the organic law of the unincorporated entity, articles of entity conversion must be executed on behalf of the unincorporated entity by an officer or other duly authorized representative of the ~~corporation~~ unincorporated entity. The articles must:

A. Set forth the name of the unincorporated entity immediately before the filing of the articles of entity conversion and the name to which the name of the unincorporated entity is to be changed, which must be a name that satisfies the requirements of section 401;

B. Set forth a statement that the plan of entity conversion was duly approved in accordance with the organic law of the unincorporated entity; and

C. Either contain all the provisions that section 202, subsection 1 requires to be set forth in articles of incorporation with any other desired provisions that section 202, subsection 2 permits to be included in articles of incorporation or have attached articles of incorporation; except that, in either case, provisions that would not be required under chapter 10 to be included in restated articles of incorporation of a domestic business corporation may be omitted.

Sec. B-91. 13-C MRSA §955, sub-§3, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7 and affected by RR 2001, c. 2, Pt. A, §23, is amended to read:

3. Conversion by law of foreign jurisdiction. After the conversion of a foreign unincorporated entity to a domestic business corporation is authorized as required by the laws of the foreign jurisdiction, articles of entity conversion must be executed on behalf of the foreign unincorporated entity by an officer or other duly authorized representative of the ~~corporation~~ unincorporated entity. The articles must:

A. Set forth the name of the unincorporated entity immediately before the filing of the articles of entity conversion and the name to which the name of the unincorporated entity is to be changed, which must be a name that satisfies the requirements of section 401;

B. Set forth the jurisdiction under the laws of which the unincorporated entity was organized immediately before the filing of the articles of entity conversion and the date on which the unincorporated entity was organized in that jurisdiction;

C. Set forth a statement that the conversion of the unincorporated entity was duly approved in the manner required by its organic law; and

D. Either contain all the provisions that section 202, subsection 1 requires to be set forth in arti-

cles of incorporation with any other desired provisions that section 202, subsection 2 permits to be included in articles of incorporation or have attached articles of incorporation; except that, in either case, provisions that would not be required by chapter 10 to be included in restated articles of incorporation of a domestic business corporation may be omitted.

Sec. B-92. 13-C MRSA §1003, sub-§§5 and 6, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

5. Approval by majority. Unless the articles of incorporation or the board of directors, acting pursuant to subsection 3, requires a greater vote, approval of the amendment requires the approval of the shareholders by a majority of all the votes entitled to be cast on the amendment by the shareholders~~. If~~ and, if any class or series is entitled to vote as a separate voting group on the amendment, except as provided in section 1004, subsection 3, the amendment requires the approval of each separate voting group by a majority of all the votes entitled to be cast on the amendment by that voting group. The articles of incorporation may provide that an amendment may be approved by a lesser vote of each voting group entitled to vote on the amendment, but in no case less than a majority of the votes cast by that voting group at a meeting at which there exists, for each such voting group, a quorum consisting of at least a majority of the votes entitled to be cast on the amendment by each voting group entitled to vote on the amendment.

6. Consent of shareholders. ~~The articles of incorporation may be amended~~ An amendment to the articles of incorporation may be approved by written consent of ~~all~~ shareholders entitled to vote ~~on the amendment~~, as provided ~~by~~ in section 704~~, subsection 1; if a unanimous written consent is given~~. If the amendment is approved by written consent of all shareholders, whether or not entitled to vote, a resolution of the board of directors proposing the amendment is not necessary.

Sec. B-93. 13-C MRSA §1005, sub-§3, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

3. Initial registered clerk or registered office. To delete the name and address of the initial ~~registered agent~~ clerk or registered office, if a statement of change is on file with the Secretary of State;

Sec. B-94. 13-C MRSA §1005, sub-§8, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

8. Make approved changes. To make any change expressly permitted by section 602, ~~subsection 4~~ subsections 1 and 2-A to be made without shareholder approval.

Sec. B-95. 13-C MRSA §1006, sub-§1, ¶¶B, C and F, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

B. The text of each amendment adopted or the information required by section 121, subsection 10, paragraph E;

C. If an amendment provides for an exchange, reclassification or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself, which may be dependent upon facts objectively ascertainable outside the articles of amendment in accordance with section 121, subsection 10;

F. If an amendment required approval by the shareholders, a statement that the amendment was duly approved by the shareholders in the manner required by this Act and by the articles of incorporation or, if an amendment is being filed pursuant to section 121, subsection 10, a statement to that effect.

Sec. B-96. 13-C MRSA §1007, sub-§1, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

1. Consolidation into single document. A corporation's board of directors may restate its articles of incorporation at any time, with or without shareholder approval, to consolidate all amendments into a single document. The restatement may omit statements as to the incorporator or incorporators and the initial directors.

Sec. B-97. 13-C MRSA §§1102 and 1103, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

§1102. Merger

1. General authority of domestic corporations. One or more domestic business corporations may merge with one or more domestic or foreign business ~~or nonprofit~~ corporations or ~~unincorporated~~ eligible entities pursuant to a plan of merger under this section.

2. Merger with foreign entities. A foreign business ~~or nonprofit~~ corporation or a foreign ~~unincorporated~~ eligible entity may be a party to a merger with a domestic business corporation or may be created by the terms of a plan of merger under this section only if the merger is permitted by the laws under which the foreign business ~~or nonprofit~~ corporation or ~~unincorporated~~ eligible entity is organized or by which it is governed; and

3. Merger not contemplated in organic law. If the organic law of a domestic ~~unincorporated~~ eligible entity does not provide procedures for the approval of a merger, a plan of merger may be adopted and approved, the merger effectuated, and appraisal rights exercised in accordance with the procedures in this chapter and chapter 13. For the purposes of applying this chapter and chapter 13:

A. The ~~unincorporated~~ eligible entity, its members or interest holders, eligible interests and organic documents taken together are deemed to be a domestic business corporation, shareholders, shares and articles of incorporation, respectively and vice versa as the context may require; and

B. If the business and affairs of the ~~unincorporated~~ eligible entity are managed by a group of persons that is not identical to the members or interest holders, that group is deemed to be the board of directors.

4. Plan of merger. A plan of merger must include:

A. The name of each domestic or foreign business ~~or nonprofit~~ corporation or ~~unincorporated~~ eligible entity that will merge and the name of the corporation or ~~unincorporated~~ eligible entity that will be the survivor of the merger;

B. The terms and conditions of the merger;

C. The manner and basis of converting the shares of each merging domestic or foreign business corporation~~, memberships of each domestic or foreign nonprofit corporation~~ and eligible interests of each merging domestic or foreign ~~unincorporated~~ eligible entity into shares or other securities, ~~memberships,~~ eligible interests, obligations, rights to acquire shares~~,~~ or other securities or ~~interest~~ eligible interests, cash or other property or any combination thereof;

D. The articles of incorporation of any domestic or foreign business or nonprofit corporation or the organic documents of any domestic or foreign unincorporated entity to be created by the merger or, if a new domestic or foreign business or nonprofit corporation or unincorporated entity is not to be created by the merger, any amendments to the survivor's articles of incorporation or organic documents; and

E. Any other provisions required by the laws under which any party to the merger is organized or by which it is governed, or by the articles of incorporation or organic documents of any such person.

5. Extrinsic facts. ~~The terms~~ Terms of ~~the~~ a plan of merger ~~referred to in subsection 4, paragraphs B and C~~ may be made dependent ~~on~~ upon facts ~~ascertainable outside the plan of merger, as long as those facts are~~ objectively ascertainable~~. For the purposes of this subsection, "facts" includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.~~ outside the plan in accordance with section 121, subsection 10.

6. Amend plan prior to filing articles of merger. The plan of merger may also include a provision that the plan may be amended prior to filing the articles of merger with the Secretary of State under section 1106, subsection 2. If the shareholders of a domestic corporation that is a party to the merger are required or permitted to vote on the plan, the plan must provide that subsequent to approval of the plan by the shareholders the plan may not be amended to:

A. Change the amount or kind of shares or other securities, eligible interests, obligations, rights to acquire shares or other securities, cash or other property to be received under the plan by the shareholders or owners of eligible interests in any party to the merger;

B. Change the articles of incorporation or the organic documents of any ~~other~~ eligible entity that will survive or be created as a result of the merger, except for changes permitted by section 1005 or by comparable provisions of the organic laws of any such foreign corporation or domestic or foreign ~~other~~ eligible entity; or

C. Change any of the other terms or conditions of the plan if the change would adversely affect the shareholders in any material respect.

§1103. Share exchange

1. Share exchange. Through a share exchange:

A. A domestic corporation may acquire all of the shares of one or more classes or series of shares of another domestic or foreign business corporation, or all of the eligible interests of one or more classes or series of eligible interests of a domestic or foreign ~~other~~ eligible entity, in exchange for shares or other securities, eligible interests, obligations, rights to acquire shares or other securities or eligible interests, cash or other property or any combination thereof pursuant to a plan of share exchange; or

B. All of the shares of one or more classes or series of shares of a domestic corporation may be acquired by another domestic or foreign business corporation or ~~other~~ eligible entity in exchange for shares or other securities, eligible interests,

obligations, rights to acquire shares or other securities or eligible interests, cash or other property or any combination thereof pursuant to a plan of share exchange.

2. Party to share exchange. A foreign corporation or ~~a foreign unincorporated~~ an eligible entity may be a party to a share exchange under this section only if the share exchange is permitted by the laws under which the corporation or ~~other~~ eligible entity is organized or governed.

3. Share exchange not contemplated in organic law. If the organic law of a domestic ~~unincorporated~~ eligible entity does not provide procedures for the approval of a share exchange, a plan of share exchange may be adopted and approved and the share exchange effectuated in accordance with the procedures, if any, for a merger. If the organic law of a domestic ~~unincorporated~~ eligible entity does not provide procedures for the approval of either a share exchange or a merger, a plan of share exchange may be adopted and approved, the share exchange effectuated and appraisal rights exercised in accordance with the procedures in this chapter and chapter 13. For the purposes of applying this chapter and chapter 13:

A. The ~~unincorporated~~ eligible entity, its members or interest holders, eligible interests and organic documents taken together are deemed to be a domestic business corporation, shareholders, shares and articles of incorporation, respectively and vice versa as the context may require; and

B. If the business and affairs of the ~~unincorporated~~ eligible entity are managed by a group of persons that is not identical to the members or interest holders, that group is deemed to be the board of directors.

4. Plan of share exchange. A plan of share exchange must include:

A. The name of each corporation or ~~other~~ eligible entity whose shares or eligible interests will be acquired and the name of the corporation or ~~other~~ eligible entity that will acquire those shares or eligible interests;

B. The terms and conditions of the share exchange;

C. The manner and basis of exchanging shares of a corporation or eligible interests in an ~~other~~ eligible entity whose shares or eligible interests will be acquired under the share exchange into shares ~~or~~, other securities, eligible interests, obligations, rights to acquire shares ~~or~~, other securities or eligible interests, cash or other property or any combination thereof; and

D. Any other provisions required by the laws under which any party to the share exchange is organized, or by the articles of incorporation or organic documents of any such party.

5. Extrinsic facts. ~~The provisions~~ Terms of ~~the~~ a plan of share exchange ~~referred to in subsection 4, paragraphs B and C~~ may be made dependent on facts objectively ascertainable outside the plan ~~of share exchange, as long as those facts are objectively ascertainable. For purposes of this subsection, "facts" includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.~~ in accordance with section 121, subsection 10.

6. Amend plan prior to filing articles of share exchange. The plan of share exchange also may include a provision that the plan may be amended prior to filing the articles of share exchange with the Secretary of State under section 1106, subsection 2. If the shareholders of a domestic corporation that is a party to the share exchange are required or permitted to vote on the plan, the plan must provide that subsequent to approval of the plan by the shareholders the plan may not be amended to:

A. Change the amount or kind of shares or other securities, eligible interests, obligations, rights to acquire shares ~~or~~, other securities~~,~~ or eligible interests, cash or other property to be issued by the corporation or to be received under the plan by the shareholders of or ~~owners~~ holders of eligible interests in any party to the share exchange; or

B. Change any of the terms or conditions of the plan if the change would adversely affect the shareholders in any material respect.

This section does not limit the power of a domestic corporation to acquire shares of another corporation or eligible interests in an ~~other~~ eligible entity in a transaction other than a share exchange.

Sec. B-98. 13-C MRSA §1104, sub-§4, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

4. Notice of meeting. If the plan of merger or share exchange under this chapter is required by the corporation's articles of incorporation to be approved by the shareholders and if the approval is to be given at a meeting of shareholders, the corporation shall notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the plan is to be submitted for approval. The notice must state that the purpose or one of the purposes of the meeting is to consider the plan and must contain or be accompanied by a copy or summary of the plan. If the corporation is to be merged into an existing corporation or ~~other~~ eligible entity, the notice also must

include or be accompanied by a copy or summary of the articles of incorporation or organizational documents of that corporation or ~~other~~ eligible entity. If the corporation is to be merged into a corporation or ~~other~~ eligible entity that is to be created pursuant to the merger, the notice also must include or be accompanied by a copy or a summary of the articles of incorporation or organizational documents of the new corporation or ~~other~~ eligible entity;

Sec. B-99. 13-C MRSA §1104, sub-§6, ¶A, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

A. On a plan of merger by each class or series of shares that:

(1) Are to be converted under the plan of merger into shares or other securities, eligible interests, obligations, rights to acquire shares ~~or,~~ other securities or eligible interests, cash or other property or any combination thereof; or

(2) Would be entitled to vote as a separate group on a provision in the plan that, if contained in a proposed amendment to articles of incorporation, would require action by separate voting groups under section 1004;

Sec. B-100. 13-C MRSA §1104, sub-§10, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

10. Consent of shareholders. A plan of merger or share exchange may be approved for a participating corporation by written consent of ~~all~~ shareholders ~~of a participating corporation, whether or not~~ entitled to vote ~~by the corporation's articles of incorporation,~~ as provided in section 704~~, subsection 1~~. If the ~~unanimous written consent is given~~ plan of merger or share exchange is approved by written consent of all shareholders, whether or not entitled to vote, a resolution of the board of directors of the participating corporation approving, proposing, submitting, recommending or otherwise respecting the plan of merger or share exchange is not necessary and shareholders of the participating corporation are not entitled to receive notice of or to dissent from the plan of merger or share exchange.

Sec. B-101. 13-C MRSA §1106, sub-§1, ¶¶A and E, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

A. The names, types of entity and jurisdictions of the parties to the merger or share exchange and the date on which the merger or share exchange occurred or is to be effective;

E. For each foreign corporation and ~~each other~~ eligible entity that was a party to the merger or share exchange, a statement that the participation of the foreign corporation or ~~other~~ eligible entity was duly authorized as required by the organic law of the corporation or ~~other~~ eligible entity.

Sec. B-102. 13-C MRSA §1106, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

2. File articles with Secretary of State. Articles of merger or share exchange must be delivered to the Secretary of State for filing by the survivor of the merger or the acquiring corporation in a share exchange and take effect at the effective time provided in section 125. Articles of merger or share exchange filed under this section may be combined with any filing required under the organic law of any domestic eligible entity involved in the transaction if the combined filing satisfies the requirements of both this section and the organic law.

Sec. B-103. 13-C MRSA §§1107 and 1108, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

§1107. Effect of merger or share exchange

1. Merger. When a merger becomes effective:

A. The corporation or ~~other~~ eligible entity that is designated in the plan of merger as the survivor continues or comes into existence, as the case may be;

B. The separate existence of every corporation or ~~other~~ eligible entity that is merged into the survivor ceases;

C. All property owned by and every contract right possessed by each corporation or ~~other~~ eligible entity that merges into the survivor is vested in the survivor without reversion or impairment;

D. All liabilities of each corporation or ~~other~~ eligible entity that is merged into the survivor are vested in the survivor;

E. The name of the survivor may but need not be substituted in any pending proceeding for the name of any party to the merger whose separate existence ceased in the merger;

F. The articles of incorporation or organizational documents of the survivor are amended to the extent provided in the plan of merger;

G. The articles of incorporation or organizational documents of a survivor that is created by the merger become effective; and

H. The shares of each corporation that is a party to the merger and the eligible interests in an ~~other~~ eligible entity that is a party to a merger that are to be converted under the plan of merger into shares, eligible interests, obligations, rights to acquire ~~securities~~ shares, other securities or eligible interests, cash or other property or any combination thereof are converted, and the former holders of the shares or eligible interests are entitled only to the rights provided to them in the plan of merger or to any rights they may have under chapter 13 or the organic law of the eligible entity.

2. Share exchange. When a share exchange becomes effective, the shares of each domestic corporation that are to be exchanged for shares ~~or~~, other securities, eligible interests, obligations, rights to acquire shares or other securities or eligible interests, cash or other property or any combination thereof are entitled only to the rights provided to them in the plan of share exchange or to any rights they may have under chapter 13.

3. Shareholder's liabilities and obligations. A person who becomes subject to owner liability for some or all of the debts, liabilities or obligations of any entity as a result of a merger or share exchange has owner liability only to the extent provided in the organic law of the entity and only for those debts, liabilities and obligations that arise after the effective time of the articles of merger or share exchange.

4. Foreign corporation. When a merger becomes effective, a foreign corporation or a foreign ~~other~~ eligible entity that is the survivor of the merger is deemed to:

A. Appoint the Secretary of State as its agent for service of process in a proceeding to enforce the rights of shareholders of each domestic corporation that is a party to the merger who exercise appraisal rights and shall provide a mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State; and

B. Agree to promptly pay the amount, if any, to which the shareholders under paragraph A are entitled under chapter 13.

5. Effect of merger or share exchange on liability. The effect of a merger or share exchange on the owner liability of a person who had owner liability for some or all of the debts, obligations or liabilities of a party to the merger or share exchange is as follows.

A. The merger or share exchange does not discharge any liability under the organic law of the entity in which the person was a shareholder, member or interest holder to the extent any such owner liability arose before the effective time of the articles of merger or share exchange.

B. The person does not have owner liability under the organic law of the entity in which the person was a shareholder, member or interest holder prior to the merger or share exchange for any debt, obligation or liability that arises after the effective time of the articles of merger or share exchange.

C. The provisions of the organic law of any entity for which the person had owner liability before the merger or share exchange continue to apply to the collection or discharge of any owner liability preserved by paragraph A, as if the merger or share exchange had not occurred.

D. The person has whatever rights of contribution from other persons are provided by the organic law of the entity for which the person had owner liability with respect to any owner liability preserved by paragraph A, as if the merger or share exchange had not occurred.

§1108. Abandonment of merger or share exchange

1. Abandoned merger or share exchange prior to becoming effective. Unless otherwise provided in a plan of merger or share exchange or in the laws under which a foreign business corporation or a domestic or foreign ~~other~~ eligible entity that is a party to a merger or a share exchange is organized or by which it is governed, after the plan has been adopted and approved as required by this chapter, and at any time before the merger or share exchange has become effective, the merger or share exchange may be abandoned by ~~any~~ a domestic business corporation that is a party to the merger or share exchange without action by the party's shareholders ~~or owners of interests~~, in accordance with any procedures set forth in the plan of merger or share exchange or, if procedures are not set forth in the plan, in the manner determined by the corporation's board of directors ~~or the managers of an other entity~~, subject to any contractual rights of other parties to the merger or share exchange.

2. Abandoned merger or share exchange after articles of merger or share exchange are filed. If a merger or share exchange is abandoned under subsection 1 after articles of merger or share exchange have been filed with the Secretary of State under section 1106, subsection 2 but before the merger or share exchange has become effective, a statement that the merger or share exchange has been abandoned in accordance with this section, executed on behalf of a party to the merger or share exchange by an officer or other duly authorized representative, must be delivered to the Secretary of State for filing prior to the effective

date of the merger or share exchange. The statement must also include the names, types of entity and the jurisdictions of the parties to the merger or share exchange. Upon filing, the statement takes effect and the merger or share exchange is considered abandoned and does not become effective.

Sec. B-104. 13-C MRSA §1109, sub-§1, ¶E, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

E. "Business combination," when used in reference to any domestic corporation and any interested shareholder of that domestic corporation, means:

(1) Any merger or ~~consolidation~~ share exchange of that domestic corporation or any subsidiary of that domestic corporation with that interested shareholder, any other corporation, whether or not it is an interested shareholder of that domestic corporation, that is, or after a merger or ~~consolidation~~ share exchange would be, an affiliate or associate of that interested shareholder, or any other corporation if the merger or ~~consolidation~~ share exchange is caused by that interested shareholder and as a result of that merger or ~~consolidation~~ share exchange this section is not applicable to the surviving corporation;

(1-A) Any conversion or domestication proposed by an interested shareholder or for which an interested shareholder votes, as a result of which this section is not applicable to the resulting entity;

(2) Any sale, lease, exchange, mortgage, pledge, transfer or other disposition, in one transaction or a series of transactions, of assets of that domestic corporation or any subsidiary of that domestic corporation having an aggregate market value equal to 10% or more of the aggregate market value, or book value determined in accordance with good accounting practices, of all the assets, determined on a consolidated basis, of that domestic corporation, having an aggregate market value equal to 10% or more of the aggregate market value of all the outstanding shares of that domestic corporation, or representing 10% or more of the earning power or income, determined on a consolidated basis, of that domestic corporation proposed by, on behalf of or pursuant to any agreement, arrangement or understanding, whether or not in writing, with that interested shareholder or any affiliate or associate of that interested shareholder;

(3) The issuance or transfer by that domestic corporation or any subsidiary of that domestic corporation, in one transaction or a series of transactions, of any shares of that domestic corporation or any subsidiary of that domestic corporation that has an aggregate market value equal to 5% or more of the aggregate market value of all the outstanding shares of that domestic corporation to that interested shareholder or any affiliate or associate of that interested shareholder, except pursuant to the exercise of warrants or rights to purchase shares offered, or a dividend or distribution paid or made, pro rata to all shareholders of that domestic corporation;

(4) The adoption of any plan or proposal for the liquidation or dissolution of that domestic corporation proposed by, on behalf of or pursuant to any agreement, arrangement or understanding, whether or not in writing, with that interested shareholder or any affiliate or associate of that interested shareholder;

(5) Any reclassification of securities, including, without limitation, any share split, share dividend or other distribution of shares, or any reverse share split, or recapitalization of that domestic corporation, or any merger or consolidation of that domestic corporation, with any subsidiary of that domestic corporation, or any other transaction, whether or not with, or into, or otherwise involving that interested shareholder, proposed by, on behalf of or pursuant to any agreement, arrangement or understanding, whether or not in writing, with that interested shareholder or any affiliate or associate of that interested shareholder, any of which has the effect, directly or indirectly, of increasing the proportionate share of the outstanding shares of any class or series of voting shares or securities convertible into voting shares of that domestic corporation or any subsidiary of that domestic corporation that is directly or indirectly owned by that interested shareholder or any affiliate or associate of that interested shareholder, except as a result of immaterial changes due to fractional share adjustments; or

(6) Any receipt by that interested shareholder or any affiliate or associate of that interested shareholder of the benefit, directly or indirectly, except proportionately as a shareholder of the domestic corporation, of any loans, advances, guarantees,

pledges or other financial assistance or any tax credits or other tax advantages provided by or through that domestic corporation.

Sec. B-105. 13-C MRSA §1202, sub-§§5 and 9, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

5. Majority approval of disposition. Unless the articles of incorporation or the corporation's board of directors, acting pursuant to subsection 3, requires a greater vote, approval of a disposition requires the approval of the shareholders by a majority of all the votes entitled to be cast on the plan by the shareholders and, if any class or series is entitled to vote as a separate voting group on the disposition, the approval of each separate voting group by a majority of all the votes entitled to be cast on the disposition by that voting group. The articles of incorporation may provide that a disposition may be approved by a lesser vote of each voting group entitled to vote on the disposition, but in no case may a disposition be approved by less than a majority of the votes cast by that voting group at a meeting at which there exists, for each such voting group, a quorum consisting of at least a majority of the votes entitled to be cast on the disposition by each voting group entitled to vote on the disposition.

9. Consent of shareholders. A disposition that requires approval of the corporation's shareholders under subsection 1 may be authorized by written consent of ~~all~~ the shareholders ~~of the corporation, whether or not the shareholders are~~ entitled to vote ~~by the articles of incorporation,~~ as provided ~~by~~ in section 704~~, subsection 1~~. If ~~a unanimous written consent is given~~ the disposition is approved by written consent of all shareholders, whether or not entitled to vote, a resolution of the corporation's board of directors approving, proposing, submitting, recommending or otherwise respecting the disposition is not necessary, and the shareholders of the corporation are not entitled to notice of or to dissent from the disposition.

Sec. B-106. 13-C MRSA §1302, sub-§§7 and 8, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

7. Conversion to nonprofit status. Consummation of a conversion of the corporation to nonprofit status pursuant to chapter 9, subchapter ~~III~~ 2; or

8. Conversion to unincorporated entity. Consummation of a conversion of the corporation to ~~a form of other~~ an unincorporated entity pursuant to chapter 9, subchapter ~~IV~~ 4.

Sec. B-107. 13-C MRSA §1305, first ¶, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

A shareholder entitled to appraisal rights under this subchapter may not challenge a completed corporate action ~~requiring appraisal rights~~ described in section 1302, other than those described in section 1303, subsection 3, unless the corporate action:

Sec. B-108. 13-C MRSA §1401, sub-§§4, 5 and 6, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

4. Debt. That no debt of the corporation remains unpaid, including the filing of the annual report as required by section 1621;

5. Net assets. That, if shares were issued, the net assets of the corporation remaining after winding up have been distributed to the shareholders; ~~and~~

6. Authorization of dissolution. That a majority of the incorporators or initial directors authorized the dissolution~~.~~;

Sec. B-109. 13-C MRSA §1401, sub-§§7 and 8 are enacted to read:

7. Date authorized. The date dissolution was authorized; and

8. Effective date. The effective date of the dissolution. A corporation is dissolved upon the effective date of its articles of dissolution.

Sec. B-110. 13-C MRSA §1402, sub-§5, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is repealed and the following enacted in its place:

5. Adoption of dissolution by majority. Unless the corporation's articles of incorporation or the corporation's board of directors acting pursuant to subsection 3 requires a greater vote, approval of the proposal to dissolve requires the approval of the shareholders by a majority of all the votes entitled to be cast on the proposal by that voting group and, if any class or series is entitled to vote as a separate voting group on the proposal, the approval of each separate voting group by a majority of all the votes entitled to be cast on the proposal by that voting group. The corporation's articles of incorporation may provide that a proposal to dissolve may be approved by a lesser vote of each voting group entitled to vote on the proposal, but in no case by less than a majority of the votes cast by that voting group at a meeting at which there exists for each such voting group a quorum consisting of at least a majority of the votes entitled to be cast on the proposal by each voting group entitled to vote on the proposal.

Sec. B-111. 13-C MRSA §1403, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

§1403. Dissolution by written consent of all shareholders

A ~~corporation may be voluntarily dissolved by unanimous written consent of its shareholders, whether or not entitled to vote by the corporation's articles of incorporation~~ proposal to dissolve may be approved by written consent of shareholders entitled to vote as provided in section 704. If ~~a unanimous written consent is given~~ the dissolution is approved by written consent of all shareholders, whether or not entitled to vote, a resolution of the corporation's board of directors proposing the dissolution is not necessary.

Sec. B-112. 13-C MRSA §1404, sub-§1, ¶B, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

B. The date dissolution was authorized and the effective date of the dissolution; and

Sec. B-113. 13-C MRSA §1405, sub-§3, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

3. Articles of revocation of dissolution. After the revocation of dissolution is authorized, a corporation may revoke the dissolution by delivering to the Secretary of State for filing articles of revocation of dissolution~~, together with a copy of its articles of dissolution,~~ that set forth:

A. The name of the corporation;

B. The effective date of the dissolution that was revoked;

C. The date that the revocation of dissolution was authorized;

D. If the corporation's board of directors or incorporators revoked the dissolution, a statement to that effect;

E. If the corporation's board of directors revoked a dissolution authorized by the shareholders, a statement that revocation was permitted by action of the board of directors alone pursuant to that authorization; and

F. If shareholder action was required to revoke the dissolution, the information required by section 1404, subsection 1, paragraph C.

Sec. B-114. 13-C MRSA §1407, sub-§2, ¶C, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

C. State the deadline, which may not be ~~later~~ fewer than 120 days ~~after~~ from the effective date of the written notice, by which the dissolved corporation must receive the claim; and

Sec. B-115. 13-C MRSA §1422, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

2. Reinstatement after administrative dissolution. If the Secretary of State determines that the application contains the information required under subsection 1 and is accompanied by the reinstatement fee set forth in section 123, subsection 1~~, paragraph V~~ and that the information is correct, the Secretary of State shall cancel the administrative dissolution and prepare a notice of reinstatement that recites that determination and the effective date of reinstatement. The Secretary of State shall use the procedures set forth in section 502 to deliver the notice to the corporation.

Sec. B-116. 13-C MRSA §1424 is enacted to read:

§1424. Reinstatement of suspended corporate charter

1. Reinstatement after charter suspension. A corporation whose charter was suspended before July 1, 2003 may apply for reinstatement with the Secretary of State if:

A. The Secretary of State determines that the application contains the information required under section 1422, subsection 1;

B. The application is accompanied by the reinstatement fee set forth in section 123, subsection 1; and

C. The application is received by the Secretary of State by June 30, 2009.

2. Effect on corporation failing to reinstate by June 30, 2009. A corporation that fails to meet the requirements of subsection 1 is administratively dissolved and may not reinstate.

3. Protecting corporate name after suspension. The name of a corporation whose charter is suspended remains in the Secretary of State's records of corporate names and is protected for a period of 3 years following its suspension.

Sec. B-117. 13-C MRSA §1501, sub-§1, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

1. Application for authority. A foreign corporation may not transact business in this State until ~~it~~ the foreign corporation files an application for authority to transact business with the Secretary of State.

Sec. B-118. 13-C MRSA §1502, sub-§5, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

5. Validity of corporate acts. Notwithstanding subsections 1 and 2, the failure of a foreign corporation to file an application for authority does not impair the validity of its corporate acts, including contracts, or prevent it from defending any proceeding in this State.

Sec. B-119. 13-C MRSA §1503, sub-§1, ¶A, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

A. The name of the foreign corporation or, if its real name is unavailable for use in this State, a corporate name that satisfies the requirements of section ~~1506~~ 401;

Sec. B-120. 13-C MRSA §1503, sub-§1, ¶E, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

E. The address of its registered office in this State and the name of its registered agent at that office, including the street address and a mailing address, if different. For the address, a post office box alone is not sufficient to meet the requirements of this paragraph; and

Sec. B-121. 13-C MRSA §1504, sub-§1, ¶B, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

B. Its ~~registered or~~ principal office wherever located; or

Sec. B-122. 13-C MRSA §1504, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is repealed and the following enacted in its place:

2. Requirements. A foreign corporation must deliver an amended application that sets forth:

A. The name of the corporation;

B. The jurisdiction of incorporation;

C. The date on which the foreign corporation was authorized to transact business in this State;

D. If the corporate name has changed, the new corporate name that meets the requirements of section 401;

E. If the address of the principal office has changed, the new address of the principal office wherever located, including the street and mailing address if different; and

F. If the state or country under whose law the foreign corporation was incorporated has changed, the new state or country under whose law it is now incorporated together with a certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law it is now incorporated. The certificate of existence must have been made not more than 90 days prior to the delivery of the application for filing.

Sec. B-123. 13-C MRSA §1506, sub-§1, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

1. Corporate name. If the corporate name of a foreign corporation does not satisfy the requirements of section 401, the foreign corporation may use a fictitious name as set forth in section 404, subsection 2 to transact business in this State if its real name is unavailable ~~and it delivers to the Secretary of State for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name~~.

Sec. B-124. 13-C MRSA §1506, sub-§§2 to 5, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are repealed.

Sec. B-125. 13-C MRSA §1507, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is repealed and the following enacted in its place:

§1507. Registered office and registered agent of foreign corporation

1. Registered office and agent. A foreign corporation authorized to transact business in this State must continuously maintain in this State:

A. A registered office that may be the same as any of its places of business; and

B. A registered agent who may be:

(1) An individual who resides in this State and whose business office is identical with the registered office;

(2) A domestic corporation or not-for-profit domestic corporation whose business office is identical with the registered office; or

(3) A foreign corporation or foreign not-for-profit corporation authorized to transact business in the State whose business office is identical with the registered office.

2. Acceptance of appointment. Unless the registered agent signed the document making the appointment, the appointment of a registered agent or

a successor registered agent on whom process may be served is not effective until the registered agent delivers a written statement to the Secretary of State accepting the appointment.

3. Change of registered agent. A foreign corporation may change its registered agent by executing and delivering for filing as provided by section 121 a statement setting forth:

A. The name of the foreign corporation;

B. The jurisdiction of incorporation and the date on which the foreign corporation was authorized to transact business in this State;

C. The name and address of its current registered agent; and

D. The name and address of its successor registered agent.

4. Resignation of registered agent. The registered agent of a foreign corporation may resign upon filing a written notice of the resignation with the Secretary of State and by mailing a copy of the notice to the foreign corporation at its last principal office, wherever located, as filed with the Secretary of State. The notice filed with the Secretary of State must recite that a copy of the notice has been mailed to the last principal office as designated in this subsection, specify the address to which the notice was mailed and provide the jurisdiction of incorporation and the date on which the foreign corporation was authorized to transact business in this State. The appointment of such registered agent terminates upon the date of the filing of the notice by the Secretary of State.

5. Appointment of new registered agent. If a registered agent dies, becomes incapacitated, resigns or otherwise is unable to perform the registered agent's duties, the foreign corporation shall promptly appoint another registered agent and shall execute and file with the Secretary of State a written statement of the appointment of the new registered agent as provided in subsection 4.

6. Name or address change. If the name of the current registered agent or address of the registered office of one or more foreign corporations changes from the name of the current registered agent or address of the registered office appearing on the record in the office of the Secretary of State, the registered agent shall execute and deliver for filing a statement setting forth:

A. The name of the foreign corporation, jurisdiction of incorporation and date on which the foreign corporation was authorized to transact business in this State for each foreign corporation affected by the change designated in this subsection;

B. The name of the registered agent appearing on the record in the office of the Secretary of State;

C. If the current registered agent has had a name change, the new name of the registered agent;

D. The address of the registered office appearing on the record in the office of the Secretary of State;

E. If the address of the registered office has changed, the address of the new registered office, including the street address and a mailing address, if different. For the address, a post office box alone is not sufficient to meet the requirements of this paragraph;

F. The name of each foreign corporation affected by the change as provided in this subsection; and

G. That a notice of the change has been sent to each of the foreign corporations.

In lieu of bulk filing, the registered agent may file for each such foreign corporation a separate statement containing the information.

7. Statement of change. Filing by a foreign corporation of a statement of a change of its registered agent, as provided in subsection 4, constitutes both an appointment of the new registered agent named in the statement of change and a termination of the appointment of its former registered agent.

8. Registered agent named in application for authority. The initial registered agent of a foreign corporation must be named in the application for authority for that foreign corporation. A registered agent continues in office until a successor is chosen and qualifies and the statement required by subsection 4 is filed or until the resignation notice required by subsection 5 is filed.

9. Document filed to change registered agent. The document to be filed by the Secretary of State, the effect of which is to change the registered agent, must be signed by the person designated in the document as the new registered agent or in accordance with subsection 3 and section 121, subsection 5, paragraph A, B or C.

Sec. B-126. 13-C MRSA §§1508 and 1509, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are repealed.

Sec. B-127. 13-C MRSA §1521, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

2. Application of withdrawal; contents. A foreign corporation authorized to transact business in this State may file an application of withdrawal by delivering an application to the Secretary of State for filing. The application must set forth:

A. The name of the foreign corporation ~~and~~, the name of the state or country under whose law it is incorporated and the date on which the foreign corporation was authorized to transact business in this State;

B. That the foreign corporation is not transacting business in this State and that it surrenders its authority to transact business in this State;

C. That the foreign corporation revokes the authority of its registered agent to accept service on its behalf and appoints the Secretary of State as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this State;

D. A mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State under paragraph C; and

E. A commitment to notify the Secretary of State in the future of any change in the foreign corporation's mailing address.

Sec. B-128. 13-C MRSA §1523, sub-§1, ¶A, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

A. The name of the foreign business corporation ~~and~~, the name of the state or country under whose law it was incorporated before the conversion and the date on which the foreign corporation was authorized to transact business in this State;

Sec. B-129. 13-C MRSA §1524, sub-§1, ¶A, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

A. The name of the foreign corporation, the current state or country under whose laws it is incorporated as it appears on the records of the Secretary of State and the date on which the corporation was authorized to transact business in this State;

Sec. B-130. 13-C MRSA §1531, sub-§4, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

4. Notice of change of registered agent or office. The foreign corporation does not inform the Secretary of State under section ~~1508 or 1509~~ 1507 that its registered agent or registered office has changed, that its registered agent has resigned or that its registered office has been discontinued within 60 days of the change, resignation or discontinuance;

Sec. B-131. 13-C MRSA §1601, sub-§5, ¶A, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

A. Its articles or restated articles of incorporation ~~and~~, all amendments to them currently in effect and any notices to shareholders referred to in section 121, subsection 10, paragraph E regarding facts on which a filed document is dependent;

Sec. B-132. 13-C MRSA §1602, sub-§5, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

5. Right of inspection. The right of inspection granted by this section may not be abolished or limited, except as provided in subsections 2 and 4, by a corporation's articles of incorporation or bylaws.

Sec. B-133. 13-C MRSA §1621, sub-§1, ¶¶B and D, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, are amended to read:

B. The address of the registered office of the domestic or foreign corporation in this State; the name of its clerk, if a domestic corporation, or its registered agent in this State, if a foreign corporation; and, if a foreign corporation, the address of its ~~registered or~~ principal office, wherever located. The address of a registered office must include the street or rural route number, town or city and state;

D. The name and business or residence address of the president or chief executive officer, the treasurer~~, the clerk or registered agent~~ or chief financial officer and directors or, if no directors, shareholders of the domestic or foreign corporation, including the street or rural route number, town or city and state.

Sec. B-134. 13-C MRSA §1621, sub-§4, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

4. Certificate of excuse. The Secretary of State, upon application by any domestic corporation and satisfactory proof that it has ceased to transact business and that it is not indebted to this State for failure to file an annual report and to pay any fees or penalties accrued, shall file a certificate of the fact and shall give a duplicate certificate to the domestic

corporation, after which the corporation is excused from filing annual reports with the Secretary of State, ~~so~~ as long as the domestic corporation in fact transacts no business. The name of a corporation remains in the Secretary of State's records of corporate names and is protected for a period of 5 years following excuse.

Sec. B-135. 13-C MRSA §1623 is enacted to read:

§1623. Amended annual report of domestic or foreign corporations

1. Amended annual report. If the information contained in an annual report filed under section 1621 has changed, a domestic or foreign corporation may, if it determines necessary, deliver to the Secretary of State for filing an amended annual report to change the information on file. The amended annual report must be executed as provided by section 121, subsection 5.

2. Contents. The amended annual report under subsection 1 must set forth:

A. The name of the domestic corporation or foreign corporation and the jurisdiction of its incorporation;

B. The date on which the original annual report was filed; and

C. The information that has changed and the date on which it changed.

3. Period for filing. An amended annual report under subsection 1 may be filed by the domestic corporation or foreign corporation from the date of the original filing until December 31st of that filing year.

Sec. B-136. 13-C MRSA §1701, sub-§1, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

1. Application. Except as provided in subsection 2, this Act applies to all domestic corporations in existence on the effective date of this Act that were incorporated under any general statute of this State providing for incorporation of corporations for profit or with shares or under any act providing for the creation of special classes of corporations and any corporation created by special act of the Legislature, if power to amend or repeal the law under which the corporation was incorporated was reserved. Nothing contained in this Act is intended to alter or codify the business judgment rule as developed by the courts of this State or to limit its further development.

PART C

Sec. C-1. 31 MRSA §403, as corrected by RR 2001, c. 2, Pt. B, §49 and affected by §58, is repealed.

Sec. C-2. 31 MRSA §403-A is enacted to read:

§403-A. Limited partnership name

1. Requirements. A limited partnership name must contain the words "Limited Partnership," the abbreviation "L.P." or the designation "LP," unless the limited partnership is filing an assumed name under section 405-A or a registration of name under section 406-A. If the words "Limited Partnership" are used, a limited partnership may also use the abbreviation "L.P." or the designation "LP" without filing an assumed name under section 405-A.

2. Prohibition. A limited partnership name may not contain the name of a limited partner unless:

A. The name of the limited partner is also the name of a general partner; or

B. The business of the limited partnership had been carried on under that name before the admission of that limited partner.

3. Distinguishable name. Except as authorized by subsections 4 and 5, a limited partnership name must be distinguishable on the records of the Secretary of State from:

A. The name of a corporation, limited liability company, limited liability partnership or limited partnership that is incorporated, organized or authorized to transact business or carry on activities in this State;

B. Assumed, fictitious, reserved and registered name filings for all entities; and

C. Marks registered under Title 10, chapter 301-A, unless the registered owner or holder of the mark is the same person or entity as the limited partnership seeking to use a name that is not distinguishable on the records of the Secretary of State and files proof of ownership with the Secretary of State.

4. Refuse to file name. The Secretary of State, in the Secretary of State's discretion, may refuse to file a name that:

A. Consists of or comprises language that is obscene;

B. Inappropriately promotes abusive or unlawful activity;

C. Falsely suggests an association with public institutions; or

D. Violates any other provision of the law of this State with respect to names.

5. Authorization to use name. A limited partnership may apply to the Secretary of State for authorization to use a name that is not distinguishable on the records of the Secretary of State from one or more of the names described in subsection 3. The Secretary of State shall authorize use of the name applied for if:

A. The entity in possession of the name applied for consents to the use in writing and submits an undertaking in a form satisfactory to the Secretary of State to change its name to a name that is distinguishable on the records of the Secretary of State from the name of the applicant; or

B. The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this State.

6. Use of another limited partnership's name. A limited partnership may use the name, including the assumed or fictitious name, of another domestic or foreign limited partnership that is used in this State if the other limited partnership is organized or authorized to transact business in this State and the limited partnership proposing to use the name:

A. Has merged with the other limited partnership;

B. Has been formed by reorganization of the other limited partnership; or

C. Has acquired all or substantially all of the assets, including the limited partnership name, of the other limited partnership.

7. Determining distinguishability. In determining whether names are distinguishable on the records, the Secretary of State shall disregard the following:

A. The words or abbreviations of words that describe the nature of the entity, including "professional association," "corporation," "company," "incorporated," "chartered," "limited," "limited partnership," "limited liability company," "professional limited liability company," "limited liability partnership," "registered limited liability partnership," "service corporation" and "professional corporation";

B. The presence or absence of the words or symbols of the words "and" and "the"; and

C. The differences in the use of punctuation, capitalization or special characters.

8. Change of limited partnership name by foreign limited partnership. If a foreign limited partnership authorized to transact business in this State changes its name to one that does not satisfy the requirements of this section, it may not transact business in this State under the proposed new name until it adopts a name satisfying the requirements of this section and files an amended application for authority under section 495 that is accompanied by a statement of use of a fictitious name under section 405-A.

9. Exception. Notwithstanding subsection 3, the name of a limited partnership may be not distinguishable on the records of the Secretary of State if the limited partnership was organized under the laws of this State prior to January 1, 1992 or the foreign limited partnership was authorized to do business in this State prior to January 1, 1992 and had the right to use the name as its legal name prior to January 1, 1992.

10. Name of limited partnership suspended. Subsection 3 does not apply to the name of any limited partnership, the certificate of which is suspended, on and after the 3rd anniversary of the suspension.

Sec. C-3. 31 MRSA §404, as enacted by PL 1991, c. 552, §2 and affected by §4, is repealed.

Sec. C-4. 31 MRSA §404-A is enacted to read:

§404-A. Reserved name

1. Reserve use of name. A person may reserve the exclusive use of a limited partnership name, including an assumed or fictitious name, by executing and delivering for filing an application to the Secretary of State. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the Secretary of State finds that the limited partnership name applied for is available, the Secretary of State shall reserve the name for the applicant's exclusive use for a nonrenewable period of 120 days.

2. Transfer of reservation. The owner of a reserved limited partnership name under subsection 1 may transfer the reservation to another person by executing and delivering for filing to the Secretary of

State a notice of the transfer, signed by the transferor, that states the name and address of the transferee.

Sec. C-5. 31 MRSA §405, as enacted by PL 1991, c. 552, §2 and affected by §4, is repealed.

Sec. C-6. 31 MRSA §405-A is enacted to read:

§405-A. Assumed or fictitious name of limited partnership

1. Assumed name defined. As used in this section, "assumed name" means a trade name or any name other than the real name of a limited partnership except a fictitious name.

2. Fictitious name defined. As used in this section, "fictitious name" means a name adopted by a foreign limited partnership authorized to transact business in this State because its real name is unavailable pursuant to section 403-A.

3. Authorized to transact business. Upon complying with this section, a domestic limited partnership or foreign limited partnership authorized to transact business in this State may transact its business in this State under one or more assumed or fictitious names.

4. File statement indicating use of assumed or fictitious name. Prior to transacting business in this State under an assumed or fictitious name, a limited partnership shall execute and deliver to the Secretary of State for filing a statement setting forth:

A. The limited partnership name;

B. That the limited partnership intends to transact business under an assumed or fictitious name;

C. The assumed or fictitious name that the limited partnership proposes to use;

D. If the assumed name is not to be used at all of the limited partnership's places of business in this State, the locations where it will be used; and

E. If the partnership is a foreign limited partnership:

(1) The jurisdiction of organization; and

(2) The date on which it was authorized to transact business in this State.

A separate statement must be executed and delivered for filing with respect to each assumed or fictitious name that the limited partnership proposes to use.

5. Compliance required. Each assumed or fictitious name must comply with the requirements of section 403-A.

6. Enjoin use of assumed or fictitious name. If a limited partnership uses an assumed or fictitious name without complying with the requirements of this section, the continued use of the assumed or fictitious name may be enjoined upon suit by the Attorney General or by any person adversely affected by the use of the assumed or fictitious name.

7. Enjoin use despite compliance. Notwithstanding its compliance with the requirements of this section, the use of an assumed or fictitious name may be enjoined upon suit of the Attorney General or of any person adversely affected by such use if:

A. The assumed or fictitious name did not, at the time the statement required by subsection 4 was filed, comply with the requirements of section 403-A; or

B. The assumed or fictitious name is not distinguishable on the records of the Secretary of State from a name in which the plaintiff has prior rights by virtue of the common law or statutory law of unfair competition, unfair trade practices, common law copyright or similar law.

The mere filing of a statement pursuant to subsection 4 does not constitute actual use of the assumed or fictitious name set out in that statement for purposes of determining priority of rights.

8. Terminate use of assumed or fictitious name. A limited partnership may terminate an assumed or fictitious name by executing and delivering a statement setting forth:

A. The name of the limited partnership;

B. That the limited partnership no longer intends to transact business under the assumed or fictitious name; and

C. The assumed or fictitious name the limited partnership intends to terminate.

Sec. C-7. 31 MRSA §406, as amended by PL 1995, c. 514, §3, is repealed.

Sec. C-8. 31 MRSA §406-A is enacted to read:

§406-A. Registered name of foreign limited partnership

1. Register limited partnership name. A foreign limited partnership may register its limited partnership name if the name is distinguishable on the

records of the Secretary of State pursuant to section 403-A.

2. Application. To register its limited partnership name, a foreign limited partnership must execute and deliver to the Secretary of State for filing an application that:

A. Sets forth its limited partnership name, the state or country and date of its organization, the address of its principal office wherever located and a brief description of the nature of the business in which it is engaged; and

B. Is accompanied by a certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of limited partnership records in the state or country under whose law the foreign limited partnership is organized. The certificate of existence must have been made not more than 90 days prior to the delivery of the application for filing.

3. Applicant's exclusive use. The limited partnership name is registered for the foreign limited partnership's exclusive use upon the effective date of the application until the end of the calendar year in which the application was filed.

4. Renewal of registered name. A foreign limited partnership whose registration is effective may renew it for a successive year by delivering for filing to the Secretary of State a renewal application that complies with the requirements of subsection 2 between October 1st and December 31st. The renewal application, when filed, renews the registration for the following calendar year.

5. Qualify as foreign limited partnership. A foreign limited partnership whose registration is effective may, after the registration is effective, qualify as a foreign limited partnership under the registered name or may consent in writing to the use of that name by a limited partnership organized under this Act or by another foreign limited partnership authorized to transact business in this State. The registration terminates when the domestic limited partnership is organized or the foreign limited partnership qualifies or consents to the qualification of another foreign limited partnership under the registered name.

Sec. C-9. 31 MRSA §492, sub-§3, ¶H, as amended by PL 1993, c. 316, §56, is further amended to read:

H. A certificate of ~~good standing or its equivalent from the proper officer of its jurisdiction of organization~~ existence or a document of similar import duly authenticated by the secretary of state or other official having custody of limited partnership records in the state or country under whose law the foreign limited partnership is organized. The certificate of ~~good standing or its equivalent~~ existence must have been made not more than 90 days prior to the delivery of the application for filing; and

Sec. C-10. 31 MRSA §494, sub-§1, as enacted by PL 1991, c. 552, §2 and affected by §4, is amended to read:

1. Name. A foreign limited partnership may apply to the Secretary of State to do business in this State under any name that conforms with the requirements of section ~~403~~ 403-A. The name does not need to be the same as the name under which it is authorized to do business in the jurisdiction of its organization.

Sec. C-11. 31 MRSA §498, sub-§2, ¶B, as corrected by RR 1993, c. 1, §80, is amended to read:

B. The authority of a foreign limited partnership may be revoked only after:

(1) The Secretary of State has mailed to the partnership's last registered office in this State and to its last registered or principal office in its jurisdiction of organization as filed with the Secretary of State at least ~~30 days'~~ 60 days' notice of pending revocation of its authority to do business in this State. The notice must specify the default; and

(2) The partnership has not, prior to revocation, removed the ground of default specified in the notice.

Sec. C-12. 31 MRSA §498, sub-§2, ¶C, as amended by PL 1993, c. 316, §63, is further amended to read:

C. After the expiration of the ~~30 day~~ 60-day notice period, if a foreign limited partnership has not corrected the specified default or convinced the Secretary of State, by affidavit or otherwise, that there was no misrepresentation relative to paragraph A, subparagraph (5), the Secretary of State shall issue and file a certificate revoking the foreign limited partnership's authority to do business in this State and shall mail copies of the certificate of revocation to the foreign limited partnership's last registered office in this State and to its last registered or principal office in its jurisdiction of organization as filed with the Secretary of State.

Sec. C-13. 31 MRSA §524, sub-§1, ¶B, as amended by PL 1997, c. 376, §41, is further amended to read:

B. The provisions of section ~~403~~ 403-A, subsection 1, paragraph A requiring that the ~~name~~ names of all limited partnerships contain the words "Limited Partnership," the abbreviation "L.P." or the designation "LP" do not apply to a limited partnership formed before January 1, 1992 or a foreign limited partnership having obtained the authority to do business in this State before January 1, 1992 until such time as the limited partnership has filed an amendment to its certificate of limited partnership or application for authority to do business as a foreign limited partnership pursuant to subsection 2;

Sec. C-14. 31 MRSA §526, sub-§§1 and 2, as amended by PL 1997, c. 376, §42, are further amended to read:

1. Reservation. For filing of an application for reservation of name or a notice of transfer or cancellation of reservation pursuant to section ~~404~~ 404-A, a fee in the amount of $20 for each limited partnership affected;

2. Assumed or fictitious name. For filing of an application for an assumed name under section ~~405~~ 405-A, a fee in the amount of $105, and for filing of an application for a fictitious name under section 405-A, a fee in the amount of $20. The addition of the words "Limited Partnership," the abbreviation "L.P." or the designation "LP" to a foreign limited partnership's name for use in this State is not, for the purpose of this section, deemed an assumed name;

Sec. C-15. 31 MRSA §526, sub-§3, as enacted by PL 1991, c. 552, §2 and affected by §4, is amended to read:

3. Termination of assumed or fictitious name. For a termination of an assumed or fictitious name under section ~~405~~ 405-A, a fee of $20;

Sec. C-16. 31 MRSA §526, sub-§4, as amended by PL 1993, c. 316, §65, is further amended to read:

4. Registered name. For filing of an application for a registered name of a foreign limited partnership under section ~~406~~ 406-A, a fee of $20 per month for the number of months or fraction of a month remaining in the calendar year when first filing. For filing an application to renew the registration of a registered name, a fee of $155;

Sec. C-17. 31 MRSA §526, sub-§4-A, as enacted by PL 1993, c. 316, §66, is repealed.

Sec. C-18. 31 MRSA §526, sub-§18, as amended by PL 1999, c. 638, §19, is repealed.

Sec. C-19. 31 MRSA §603, as corrected by RR 2001, c. 2, Pt. B, §50 and affected by §58, is repealed.

Sec. C-20. 31 MRSA §603-A is enacted to read:

§603-A. Limited liability company name

1. Requirements. A limited liability company name must contain the words "Limited Liability Company," the abbreviation "L.L.C." or the designation "LLC" unless the limited liability company is filing an assumed name under section 605-A or a registration of name under section 606-A. If the words "Limited Liability Company," "Limited Liability Company, Chartered," "Limited Liability Company, Professional Association," "Limited Liability Company, P.A." or any of the designations without commas are used, a limited liability company may also use the abbreviation "L.L.C." or the designation "LLC" without filing an assumed name under section 605-A.

2. Distinguishable name. Except as authorized by subsections 3 and 4, a limited liability company name must be distinguishable on the records of the Secretary of State from:

A. The name of a corporation, limited liability company, limited liability partnership or limited partnership that is incorporated, organized or authorized to transact business or carry on activities in this State;

B. Assumed, fictitious, reserved and registered name filings for all entities; and

C. Marks registered under Title 10, chapter 301-A unless the registered owner or holder of the mark is the same person or entity as the limited liability company seeking to use a name that is not distinguishable on the records of the Secretary of State and files proof of ownership with the Secretary of State.

3. Refuse to file name. The Secretary of State, in the Secretary of State's discretion, may refuse to file a name that:

A. Consists of or comprises language that is obscene;

B. Inappropriately promotes abusive or unlawful activity;

C. Falsely suggests an association with public institutions; or

D. Violates any other provision of the law of this State with respect to names.

4. Authorization to use name. A limited liability company may apply to the Secretary of State for authorization to use a name that is not distinguishable on the records of the Secretary of State from one or more of the names described in subsection 2. The Secretary of State shall authorize use of the name applied for if:

A. The entity in possession of the name consents to the use in writing and submits an undertaking in a form satisfactory to the Secretary of State to change its name to a name that is distinguishable on the records of the Secretary of State from the name of the applicant; or

B. The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this State.

5. Use of another limited liability company's name. A limited liability company may use the name, including the assumed or fictitious name, of another domestic or foreign limited liability company that is used in this State if the other limited liability company is organized or authorized to transact business in this State and the limited liability company proposing to use the name:

A. Has merged with the other limited liability company;

B. Has been formed by reorganization of the other limited liability company; or

C. Has acquired all or substantially all of the assets, including the limited liability company name, of the other limited liability company.

6. Determining distinguishability. In determining whether names are distinguishable on the records, the Secretary of State shall disregard the following:

A. Words or abbreviations of words that describe the nature of the entity, including "professional association," "corporation," "company," "incorporated," "chartered," "limited," "limited partnership," "limited liability company," "professional limited liability company," "limited liability partnership," "registered limited liability partnership," "service corporation" and "professional corporation";

B. The presence or absence of the words or symbols of the words "and" and "the"; and

C. Differences in the use of punctuation, capitalization or special characters.

7. Change of limited liability company name by foreign limited liability company. If a foreign limited liability company authorized to transact business in this State changes its name to one that does not satisfy the requirements of this section, it may not transact business in this State under the proposed new name until it adopts a name satisfying the requirements of this section and files an amended application for authority under section 715 that is accompanied by a statement of use of a fictitious name under section 605-A.

8. Exception. Notwithstanding subsection 2, the name of a foreign limited liability company may be not distinguishable on the records of the Secretary of State if the foreign limited liability company was authorized to do business in this State before January 1, 1995 and had the right to use the name as its legal name before that date.

9. Name of limited liability company suspended. Subsection 2 does not apply to the name of any limited liability company whose certificate is suspended on and after the 3rd anniversary of the suspension.

Sec. C-21. 31 MRSA §604, as enacted by PL 1993, c. 718, Pt. A, §1, is repealed.

Sec. C-22. 31 MRSA §604-A is enacted to read:

§604-A. Reserved name

1. Reserve use of name. A person may reserve the exclusive use of a limited liability company name, including an assumed or fictitious name, by executing and delivering for filing an application to the Secretary of State. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the Secretary of State finds that the limited liability company name applied for is available, the Secretary of State shall reserve the name for the applicant's exclusive use for a nonrenewable period of 120 days.

2. Transfer of reservation. The owner of a reserved limited liability company name under subsection 1 may transfer the reservation to another person by executing and delivering for filing to the Secretary of State a notice of the transfer, signed by the transferor, that states the name and address of the transferee.

Sec. C-23. 31 MRSA §605, as enacted by PL 1993, c. 718, Pt. A, §1, is repealed.

Sec. C-24. 31 MRSA §605-A is enacted to read:

§605-A. Assumed or fictitious name of limited liability company

1. Assumed name defined. As used in this section, "assumed name" means a trade name or any name other than the real name of a limited liability company except a fictitious name.

2. Fictitious name defined. As used in this section, "fictitious name" means a name adopted by a foreign limited liability company authorized to transact business in this State because its real name is unavailable pursuant to section 603-A.

3. Authorized to transact business. Upon complying with this section, a domestic or foreign limited liability company authorized to transact business in this State may transact its business in this State under one or more assumed or fictitious names.

4. File statement indicating use of assumed or fictitious name. Prior to transacting business in this State under an assumed or fictitious name, a limited liability company shall execute and deliver to the Secretary of State for filing a statement setting forth:

A. The limited liability company name;

B. That the limited liability company intends to transact business under an assumed or fictitious name;

C. The assumed or fictitious name that the limited liability company proposes to use;

D. If the assumed name is not to be used at all of the limited liability company's places of business in this State, the locations where that name will be used; and

E. If the company is a foreign limited liability company:

(1) The jurisdiction of organization; and

(2) The date on which it was authorized to transact business in this State.

A separate statement must be executed and delivered to the Secretary of State for filing with respect to each assumed or fictitious name that the limited liability company proposes to use.

5. Compliance required. An assumed or fictitious name must comply with the requirements of section 603-A.

6. Enjoin use of assumed or fictitious name. If a limited liability company uses an assumed or fictitious name without complying with the requirements of this section, the continued use of the assumed or fictitious name may be enjoined upon suit by the Attorney General or by any person adversely affected by the use of the assumed or fictitious name.

7. Enjoin use despite compliance. Notwithstanding its compliance with the requirements of this section, the use of an assumed or fictitious name may be enjoined upon suit by the Attorney General or by any person adversely affected by such use if:

A. The assumed or fictitious name did not, at the time the statement required by subsection 4 was filed, comply with the requirements of section 603-A; or

B. The assumed or fictitious name is not distinguishable on the records of the Secretary of State from a name in which the plaintiff has prior rights by virtue of the common law or statutory law of unfair competition, unfair trade practices, common law copyright or similar law.

The mere filing of a statement pursuant to subsection 4 does not constitute actual use of the assumed or fictitious name set out in that statement for the purpose of determining priority of rights.

8. Terminate use of assumed or fictitious name. A limited liability company may terminate an assumed or fictitious name by executing and delivering to the Secretary of State a statement setting forth:

A. The name of the limited liability company;

B. That the limited liability company no longer intends to transact business under the assumed or fictitious name; and

C. The assumed or fictitious name the limited liability company intends to terminate.

Sec. C-25. 31 MRSA §606, as amended by PL 1995, c. 514, §§4 and 5, is repealed.

Sec. C-26. 31 MRSA §606-A is enacted to read:

§606-A. Registered name of foreign limited liability company

1. Register limited liability company name. A foreign limited liability company may register its limited liability company name if the name is distinguishable on the records of the Secretary of State pursuant to section 603-A.

2. Application. To register its limited liability company name, a foreign limited liability company must execute and deliver to the Secretary of State for filing an application that:

A. Sets forth its limited liability company name, the state or country and date of its organization,

the address of its principal office wherever located and a brief description of the nature of the business in which it is engaged; and

B. Is accompanied by a certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of limited liability company records in the state or country under whose law the foreign limited liability company is organized. The certificate of existence must have been made not more than 90 days prior to the delivery of the application for filing.

3. Applicant's exclusive use. A limited liability company name is registered for a foreign limited liability company's exclusive use upon the effective date of the application under subsection 2 until the end of the calendar year in which the application was filed.

4. Renewal of registered name. A foreign limited liability company whose registration under this section is effective may renew it for a successive year by delivering for filing to the Secretary of State between October 1st and December 31st a renewal application that complies with the requirements of subsection 2. The renewal application, when filed, renews the registration for the following calendar year.

5. Qualify as foreign limited liability company. A foreign limited liability company whose registration under this section is effective may, after the registration is effective, qualify as a foreign limited liability company under the registered name or may consent in writing to the use of that name by a limited liability company organized under this Act or by another foreign limited liability company authorized to transact business in this State. The registration terminates when the domestic limited liability company is organized or the foreign limited liability company qualifies or consents to the qualification of another foreign limited liability company under the registered name.

Sec. C-27. 31 MRSA §712, sub-§3, ¶H, as enacted by PL 1993, c. 718, Pt. A, §1, is amended to read:

H. A certificate of ~~good standing or its equivalent from the proper officer of its jurisdiction of organization~~ existence or a document of similar import duly authenticated by the secretary of state or other official having custody of limited liability company records in the state or country under whose law the foreign limited liability company is organized. The certificate of ~~good standing or its equivalent~~ existence must have been made not more than 90 days prior to the delivery of the application for filing; and

Sec. C-28. 31 MRSA §714, sub-§1, as enacted by PL 1993, c. 718, Pt. A, §1, is amended to read:

1. Name. A foreign limited liability company may apply to the Secretary of State to do business in this State under a name that conforms with the requirements of section ~~603~~ 603-A, subsection 1. The name does not need to be the same as the name under which it is authorized to do business in the jurisdiction of its organization.

Sec. C-29. 31 MRSA §719, sub-§2, ¶¶B and C, as enacted by PL 1993, c. 718, Pt. A, §1, are amended to read:

B. The authority of a foreign limited liability company may be revoked only after:

(1) The Secretary of State has mailed to the foreign limited liability company's last registered office in this State and to its last registered or principal office in its jurisdiction of organization as filed with the Secretary of State, a ~~30-day~~ 60-day notice of pending revocation of its authority to do business in this State. The notice must specify the default; and

(2) The foreign limited liability company has not, prior to revocation, removed the ground of default specified in the notice.

C. After the expiration of the ~~30-day~~ 60-day notice period, if a foreign limited liability company has not corrected the specified default or convinced the Secretary of State, by affidavit or otherwise, that there was no misrepresentation relative to paragraph A, subparagraph (5), the Secretary of State shall issue and file a certificate revoking the foreign limited liability company's authority to do business in this State and mail copies of the certificate of revocation to the foreign limited liability company's last registered office in this State and to its last registered or principal office in its jurisdiction of organization as filed with the Secretary of State.

Sec. C-30. 31 MRSA §751, sub-§1, as amended by PL 1997, c. 376, §57, is further amended to read:

1. Reservation. For filing of an application for reservation of name or a notice of transfer ~~or cancellation~~ of reservation pursuant to section ~~604~~ 604-A, a fee of $20 for each limited liability company affected;

Sec. C-31. 31 MRSA §751, sub-§§2 to 4, as enacted by PL 1993, c. 718, Pt. A, §1, are amended to read:

2. Assumed or fictitious name. For filing of an application for an assumed name under section ~~605~~ 605-A, a fee of $105 and for filing an application for a fictitious name under section 605-A, a fee of $20;

3. Termination of assumed or fictitious name. For filing of a termination of an assumed or fictitious name under section ~~605~~ 605-A, a fee of $20;

4. Registered name. For filing of an application for a registered name of a foreign limited liability company under section ~~606~~ 606-A, a fee of $20 per month for the number of months or fraction of a month remaining in the calendar year when first filing. For filing an application to renew the registration of a registered name, a fee of $155;

Sec. C-32. 31 MRSA §751, sub-§5, as enacted by PL 1993, c. 718, Pt. A, §1, is repealed.

Sec. C-33. 31 MRSA §751, sub-§23, as amended by PL 1999, c. 638, §38, is repealed.

Sec. C-34. 31 MRSA §803, as corrected by RR 2001, c. 2, Pt. B, §52 and affected by §58, is repealed.

Sec. C-35. 31 MRSA §803-A is enacted to read:

§803-A. Registered limited liability partnership name

1. Requirements. A limited liability partnership name must contain the words "Limited Liability Partnership," the abbreviation "L.L.P." or the designation "LLP" unless the partnership is filing an assumed name under section 805-A or a registration of name under section 806-A. If the words "Limited Liability Partnership," "Limited Liability Partnership, Chartered," "Limited Liability Partnership, Professional Association," "Limited Liability Partnership, P.A." or any of the designations without commas are used, a limited liability partnership may also use the abbreviation "L.L.P." or the designation "LLP" without filing an assumed name under section 805-A.

2. Distinguishable name. Except as authorized by subsections 3 and 4, a limited liability partnership name must be distinguishable on the records of the Secretary of State from:

A. The name of a corporation, limited liability company, limited liability partnership or limited partnership that is incorporated, organized or authorized to transact business or carry on activities in this State;

B. Assumed, fictitious, reserved and registered name filings for all entities; and

C. Marks registered under Title 10, chapter 301-A unless the registered owner or holder of the mark is the same person or entity as the limited liability partnership seeking to use a name that is not distinguishable on the records of the Secretary of State and files proof of ownership with the Secretary of State.

3. Refuse to file name. The Secretary of State, in the Secretary of State's discretion, may refuse to file a name that:

A. Consists of or comprises language that is obscene;

B. Inappropriately promotes abusive or unlawful activity;

C. Falsely suggests an association with public institutions; or

D. Violates any other provision of the law of this State with respect to names.

4. Authorization to use name. A limited liability partnership may apply to the Secretary of State for authorization to use a name that is not distinguishable on the records of the Secretary of State from one or more of the names described in subsection 2. The Secretary of State shall authorize use of the name applied for if:

A. The entity in possession of the name consents to the use in writing and submits an undertaking in a form satisfactory to the Secretary of State to change its name to a name that is distinguishable on the records of the Secretary of State from the name of the applicant; or

B. The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this State.

5. Use of another limited liability partnership's name. A limited liability partnership may use the name, including the assumed or fictitious name, of another registered or foreign limited liability partnership that is used in this State if the other limited liability partnership is organized or authorized to transact business in this State and the limited liability partnership proposing to use the name:

A. Has merged with the other limited liability partnership;

B. Has been formed by reorganization of the other limited liability partnership; or

C. Has acquired all or substantially all of the assets, including the limited liability partnership name, of the other limited liability partnership.

6. Determining distinguishability. In determining whether names are distinguishable on the records, the Secretary of State shall disregard the following:

A. Words or abbreviations of words that describe the nature of the entity, including "professional association," "corporation," "company," "incorporated," "chartered," "limited," "limited partnership," "limited liability company," "professional limited liability company," "limited liability partnership," "registered limited liability partnership," "service corporation" and "professional corporation";

B. The presence or absence of the words or symbols of the words "and" and "the"; and

C. Differences in the use of punctuation, capitalization or special characters.

7. Change of limited liability partnership name by foreign limited liability partnership. If a foreign limited liability partnership authorized to transact business in this State changes its name to one that does not satisfy the requirements of this section, it may not transact business in this State under the proposed new name until it adopts a name satisfying the requirements of this section and files an amended application for authority under section 855 that is accompanied by a statement of use of a fictitious name under section 805-A.

8. Exception. Notwithstanding subsection 2, the name of a limited liability partnership may be not distinguishable on the records of the Secretary of State if the foreign limited liability partnership was authorized to do business in this State prior to January 1, 1996 and had the right to use the name as its legal name before that date.

9. Name of limited liability partnership revoked. Subsection 2 does not apply to the name of any partnership whose status as a limited liability partnership has been revoked on and after the 3rd anniversary of the revocation.

Sec. C-36. 31 MRSA §804, as enacted by PL 1995, c. 633, Pt. B, §1, is repealed.

Sec. C-37. 31 MRSA §804-A is enacted to read:

§804-A. Reserved name

1. Reserve use of name. A person may reserve the exclusive use of a limited liability partnership name, including an assumed or fictitious name, by executing and delivering for filing an application to the Secretary of State. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the Secretary of State finds that the limited liability partnership name applied for is available, the Secretary of State shall reserve the name for the applicant's exclusive use for a nonrenewable period of 120 days.

2. Transfer of reservation. The owner of a reserved limited liability partnership name under subsection 1 may transfer the reservation to another person by executing and delivering for filing to the Secretary of State a notice of the transfer, signed by the transferor, that states the name and address of the transferee.

Sec. C-38. 31 MRSA §805, as enacted by PL 1995, c. 633, Pt. B, §1, is repealed.

Sec. C-39. 31 MRSA §805-A is enacted to read:

§805-A. Assumed or fictitious name of limited liability partnership

1. Assumed name defined. As used in this section, "assumed name" means a trade name or any name other than the real name of a limited liability partnership except a fictitious name.

2. Fictitious name defined. As used in this section, "fictitious name" means a name adopted by a foreign limited liability partnership authorized to transact business in this State because its real name is unavailable pursuant to section 803-A.

3. Authorized to transact business. Upon complying with this section, a registered or foreign limited liability partnership authorized to transact business in this State may transact its business in this State under one or more assumed or fictitious names.

4. File statement indicating use of assumed or fictitious name. Prior to transacting business in this State under an assumed or fictitious name, a limited liability partnership shall execute and deliver to the Secretary of State for filing a statement setting forth:

A. The limited liability partnership name;

B. That the limited liability partnership intends to transact business under an assumed or fictitious name;

C. The assumed or fictitious name that the limited liability partnership proposes to use;

D. If the assumed name is not to be used at all of the limited liability partnership's places of busi-

ness in this State, the locations where that name will be used; and

E. If the company is a foreign limited liability partnership:

(1) The jurisdiction of organization; and

(2) The date on which it was authorized to transact business in this State.

A separate statement must be executed and delivered to the Secretary of State for filing with respect to each assumed or fictitious name that the limited liability partnership proposes to use.

5. Compliance required. Each assumed or fictitious name must comply with the requirements of section 803-A.

6. Enjoin use of assumed or fictitious name. If a limited liability partnership uses an assumed or fictitious name without complying with the requirements of this section, the continued use of the assumed or fictitious name may be enjoined upon suit by the Attorney General or by any person adversely affected by the use of the assumed or fictitious name.

7. Enjoin use despite compliance. Notwithstanding its compliance with the requirements of this section, the use of an assumed name or fictitious name may be enjoined upon suit by the Attorney General or by any person adversely affected by such use if:

A. The assumed or fictitious name did not, at the time the statement required by subsection 4 was filed, comply with the requirements of section 803-A; or

B. The assumed or fictitious name is not distinguishable on the records of the Secretary of State from a name in which the plaintiff has prior rights by virtue of the common law or statutory law of unfair competition, unfair trade practices, common law copyright or similar law.

The mere filing of a statement pursuant to subsection 4 does not constitute actual use of the assumed or fictitious name set out in that statement for the purpose of determining priority of rights.

8. Terminate use of assumed or fictitious name. A limited liability partnership may terminate an assumed or fictitious name by executing and delivering to the Secretary of State a statement setting forth:

A. The name of the limited liability partnership;

B. That the limited liability partnership no longer intends to transact business under the assumed or fictitious name; and

C. The assumed or fictitious name the limited liability partnership intends to terminate.

Sec. C-40. 31 MRSA §806, as amended by PL 1997, c. 376, §63, is repealed.

Sec. C-41. 31 MRSA §806-A is enacted to read:

§806-A. Registered name of foreign limited liability partnership

1. Register limited liability partnership name. A foreign limited liability partnership may register its limited liability partnership name if the name is distinguishable on the records of the Secretary of State pursuant to section 803-A.

2. Application. To register its limited liability partnership name, a foreign limited liability partnership must execute and deliver to the Secretary of State for filing an application that:

A. Sets forth its limited liability partnership name, the state or country and date of its organization, the address of its principal office wherever located and a brief description of the nature of the business in which it is engaged; and

B. Is accompanied by a certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of limited liability partnership records in the state or country under whose law the foreign limited liability partnership is organized. In lieu of a certificate of existence, a copy of the foreign limited liability partnership's registration certified or stamped by the secretary of state or other proper officer in its domestic jurisdiction is a sufficient equivalent if such an officer does not produce any other type of certificate of existence. The certificate of existence must have been made not more than 90 days prior to the delivery of the application for filing.

3. Applicant's exclusive use. A limited liability partnership name is registered for a foreign limited liability partnership's exclusive use upon the effective date of the application under subsection 2 until the end of the calendar year in which the application was filed.

4. Renewal of registered name. A foreign limited liability partnership whose registration under this section is effective may renew it for a successive year by delivering for filing to the Secretary of State between October 1st and December 31st a renewal application that complies with the requirements of subsection 2. The renewal application, when filed, renews the registration for the following calendar year.

5. Qualify as foreign limited liability partnership. A foreign limited liability partnership whose registration under this section is effective may, after the registration is effective, qualify as a foreign limited liability partnership under the registered name or may consent in writing to the use of that name by a registered limited liability partnership organized under this Act or by another foreign limited liability partnership authorized to transact business in this State. The registration terminates when the partnership becomes a registered limited liability partnership or the foreign limited liability partnership qualifies or consents to the qualification of another foreign limited liability partnership under the registered name.

Sec. C-42. 31 MRSA §852, sub-§3, ¶H, as enacted by PL 1995, c. 633, Pt. B, §1, is amended to read:

H. A certificate of ~~good standing or its equivalent from the proper officer of its jurisdiction of organization~~ existence or a document of similar import duly authenticated by the secretary of state or other official having custody of limited liability partnership records in the state or country under whose law the foreign limited liability partnership is organized. ~~For the purpose of this paragraph~~ In lieu of a certificate of existence, a copy of the foreign limited liability partnership's registration certified or stamped by the ~~Secretary of State~~ secretary of state or other proper officer in its domestic jurisdiction is a sufficient equivalent if such an officer does not produce any other type of certificate of existence. The certificate of ~~good standing or its equivalent~~ existence must have been made not more than 90 days prior to the delivery of the application for filing; and

Sec. C-43. 31 MRSA §854, sub-§1, as enacted by PL 1995, c. 633, Pt. B, §1, is amended to read:

1. Name. A foreign limited liability partnership may apply to the Secretary of State to do business in this State under a name that conforms with the requirements of section ~~803~~ 803-A, subsection 1. The name need not be the same as the name under which it is authorized to do business in the jurisdiction of its organization.

Sec. C-44. 31 MRSA §859, sub-§1, ¶¶B and C, as enacted by PL 1995, c. 633, Pt. B, §1, are amended to read:

B. A foreign partnership's status as a limited liability partnership in this State may be revoked only after:

(1) The Secretary of State has mailed to the foreign limited liability partnership's last registered office in this State and to its last registered or principal office in its jurisdiction of organization as filed with the Secretary of State a ~~30-day~~ 60-day notice of pending revocation of its status as a foreign limited liability partnership in this State. The notice must specify the default; and

(2) The foreign limited liability partnership has not, prior to revocation, removed the ground of default specified in the notice.

C. After the expiration of the ~~30-day~~ 60-day notice period, if a foreign limited liability partnership has not corrected the specified default or convinced the Secretary of State, by affidavit or otherwise, that there was no misrepresentation relative to paragraph A, subparagraph (5), the Secretary of State shall issue and file a certificate revoking the status of the partnership as a foreign limited liability partnership in this State and mail copies of the certificate of revocation to the foreign limited liability partnership's last registered office in this State and to its last registered or principal office in its jurisdiction of organization as filed with the Secretary of State.

Sec. C-45. 31 MRSA §871, sub-§1, as amended by PL 1997, c. 376, §71, is further amended to read:

1. Reservation. For filing an application for reservation of name or a notice of transfer or cancellation of reservation pursuant to section ~~804~~ 804-A, a fee of $20 for each limited liability partnership affected;

Sec. C-46. 31 MRSA §871, sub-§§2 to 4, as enacted by PL 1995, c. 633, Pt. B, §1, are amended to read:

2. Assumed or fictitious name. For filing an application for an assumed name under section ~~805~~ 805-A, a fee of $105 and for filing an application for a fictitious name under section 805-A, a fee of $20;

3. Termination of assumed or fictitious name. For filing a termination of an assumed or fictitious name under section ~~805~~ 805-A, subsection ~~5~~ 8, a fee of $20;

4. Registered name. For filing an application for a registered name of a foreign limited liability partnership under section ~~806~~ 806-A, a fee of $20 per month for the number of months or fraction of a month remaining in the calendar year when first filing. ~~For~~; and for filing an application to renew the registration of a registered name, the fee is $155;

Sec. C-47. 31 MRSA §871, sub-§5, as enacted by PL 1995, c. 633, Pt. B, §1, is repealed.

Sec. C-48. 31 MRSA §871, sub-§21, as enacted by PL 1997, c. 376, §72, is repealed.

PART D

Sec. D-1. 7 MRSA §1015, first ¶, as amended by PL 1971, c. 622, §21, is further amended to read:

The applicant shall file an application on forms as prescribed and furnished by the commissioner, which ~~forms shall~~ must contain the full name of the person applying for ~~such~~ the license~~,~~ and, if the applicant ~~be~~ is a corporation, partnership, association, exchange~~,~~ or legal representative ~~or~~, officer, director, partner or member ~~thereof~~ of a corporation, partnership, association or exchange, all such names and positions ~~are to be stated on the application~~. If the applicant is a foreign corporation, it shall certify that it is ~~registered with the Secretary of~~ authorized to transact business in the State under former Title 13-A, chapter 12 or Title 13-C, chapter 15, and further state the principal business address of the applicant in the State ~~of Maine~~ or elsewhere, the address of all places of business in the State ~~of Maine~~, and the name or names of the person or persons authorized to receive and accept service of lawful process upon the applicant within the State ~~of Maine~~. All questions required to be answered in the application for licenses ~~shall~~ must be sworn to, and intentionally untruthful answers ~~shall~~ constitute the crime of perjury.

Sec. D-2. 9-B MRSA §314-A, sub-§1, ¶A, as enacted by PL 1997, c. 398, Pt. C, §12, is repealed and the following enacted in its place:

A. The articles of incorporation must contain the following statement:

"The purpose of this corporation is to conduct the business of a financial institution as limited by the Maine Revised Statutes, Title 9-B or any rules, orders or certificates under Title 9-B."

Articles of incorporation or amendments to articles of incorporation must have the prior written approval of the superintendent.

Sec. D-3. 9-B MRSA §323, sub-§3, as enacted by PL 1975, c. 500, §1, is amended to read:

3. Submission to Secretary of State. Following the meeting required under subsection 2, the directors so elected shall submit an attested copy of the institution's articles of incorporation to the Secretary of State, who shall determine whether such articles satisfy the filing requirements of Title ~~13-A~~ 13-C. If such filing requirements are met and the superintendent has approved said articles, the Secretary of State shall file the articles of incorporation pursuant to Title ~~13-A, chapter 4~~ 13-C, chapter 1, subchapter 2. The filing of the articles of incorporation by the Secretary of State ~~shall~~ does not authorize the transaction of business by the financial institution until all conditions of this section are satisfied.

Sec. D-4. 9-B MRSA §327, first ¶, as enacted by PL 1975, c. 500, §1, is amended to read:

Except as provided in this section, the powers and duties of officers and directors of a financial institution organized under this chapter ~~shall~~ must be pursuant to Title ~~13-A~~ 13-C.

Sec. D-5. 9-B MRSA §327, sub-§3, ¶C, as amended by PL 1979, c. 663, §38, is further amended to read:

C. The clerk or secretary shall exercise the following powers.

(1) The clerk or secretary shall record or cause to be recorded the proceedings and actions of all meetings of the corporators, members or directors, and give or cause to be given all notices required by law or action of the directors for which no other provision is made. If no person is elected to this office, the treasurer, or in ~~his~~ the treasurer's absence another officer of the institution designated by the directors, ~~shall~~ must be ex officio clerk of the institution and of the directors.

(2) Within 30 days after the annual meeting of the board for election of officers, the clerk shall cause to be published in a local newspaper of general circulation in the county where the institution's principal office is located, or in such other newspapers as the superintendent may designate, a list of the officers and directors ~~thereof~~ of the institution. ~~He~~ The clerk shall return a copy of ~~such~~ the list of officers and directors to the superintendent within ~~said~~ that 30 days, which ~~shall~~ must be kept on file in the superintendent's office for public inspection.

(3) The clerk or secretary, in the absence of a provision in the bylaws to the contrary, shall perform the functions of clerk in accordance with Title ~~13-A, section 304~~ 13-C.

Sec. D-6. 13 MRSA §337, as amended by PL 1971, c. 565, §1, is further amended to read:

§337. Books produced for trial; refusal

When a suit or prosecution is pending for a violation, either of sections 334 to 336 or to enforce the liabilities created by Title ~~13-A~~ 13-C, section ~~624 or section 720~~ 833, the clerk or person having custody of

the books of the corporation shall, upon reasonable written notice, produce them on trial; and for neglect or refusal to do so, ~~he~~ the person is liable to the same fine or imprisonment as the party on trial would be.

Sec. D-7. 13 MRSA §741, sub-§1, ¶A-1 is enacted to read:

A-1. Nonlicensed individuals authorized to organize with licensed individuals pursuant to section 732, subsection 3;

Sec. D-8. 13 MRSA §1978, sub-§§2 and 4, as enacted by PL 1983, c. 136, are amended to read:

2. Payment. Each member of an employee cooperative corporation ~~shall~~ must be issued a membership share upon payment of a membership fee, the amount of which ~~shall~~ must be determined from time to time by the directors. Title ~~13-A, section 505,~~ 13-C, section 621 does not apply to membership shares.

4. Voting stock limited. Unless otherwise provided in this subchapter or in the articles of incorporation of an employee cooperative, no other capital stock other than membership shares may have voting power. In the event that proposed amendments to the articles of incorporation would adversely affect any nonvoting class of shareholders, such action may not be taken without the vote of those shareholders, as provided in Title ~~13-A~~ 13-C, sections ~~805~~ 1003 and ~~806~~ 1004.

Sec. D-9. 13 MRSA §1979, as enacted by PL 1983, c. 136, is amended to read:

§1979. Amendment of bylaws

The bylaws of an employee cooperative may only be amended by members, except as provided in Title ~~13-A~~ 13-C, section ~~602~~ 207.

Sec. D-10. 13 MRSA §1982, sub-§4, as enacted by PL 1983, c. 136, is amended to read:

4. Exceptions. Title ~~13-A~~ 13-C, section ~~909,~~ 1302 does not apply to an internal capital account cooperative.

Sec. D-11. 13-B MRSA §202, sub-§1, ¶¶K and L, as enacted by PL 1977, c. 525, §13, are amended to read:

K. To enter into contracts of guaranty or suretyship, unless in doing so the corporation would be engaging in an activity prohibited to business corporations organized under Title ~~13-A, section 401~~ 13-C;

L. To lend money, invest its funds from time to time~~,~~ and take and hold any property, including, but not limited to, real property, as security for payment of funds so loaned or invested, unless in doing so the corporation would be engaging in a business prohibited to business corporations organized under Title ~~13-A, section 401~~ 13-C;

Sec. D-12. 13-C MRSA §603, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

2. Limitations on reacquisition, redemption or conversion. The reacquisition, redemption or conversion of outstanding shares is subject to the limitations of subsection 3 and to section ~~6.40~~ 651.

Sec. D-13. 24-A MRSA §3486, sub-§6, as enacted by PL 1977, c. 377, is amended to read:

6. A dissenting shareholder shall file, within 20 days after the delivery to ~~him~~ that shareholder of either a copy of the plan or a summary ~~thereof~~ of the plan pursuant to subsection 4, a written notice of ~~his~~ the shareholder's election to dissent from the plan and a demand for payment of the fair value of ~~his~~ the shareholder's shares. ~~Such~~ The notice and demand ~~shall~~ must be filed with the company ~~which~~ that adopted the plan by personally delivering it, or by mailing it via certified or registered mail, to ~~such~~ the company at its registered office within this State or to its principal place of business ~~or to the address given to the Secretary of State pursuant to Title 13-A, section 906, subsection 4, paragraph B~~ as shown on its most recent annual report or, in the case of a foreign corporation that has not yet delivered an annual report, in its application for a certificate of authority pursuant to Title 13-C, section 130.

Sec. D-14. 24-A MRSA §3486, sub-§10, as enacted by PL 1977, c. 377, is amended to read:

10. If, within the additional 20-day period prescribed by subsection 9, one or more dissenting shareholders and the company have failed to agree as to the fair value of the shares, then Title ~~13-A, section 909, subsections 9, 11, 12 and 13, shall be applicable~~ 13-C, chapter 13, subchapter 3 applies, except that:

A. The term "the corporation" as used ~~therein shall be~~ in that subchapter is deemed to refer to the company ~~which~~ that adopted a plan pursuant to subsection 2;

~~B. The reference in Title 13-A, section 909, subsection 9, paragraph G to the date on which a vote was taken on the proposed corporate action shall be deemed to refer to the date on which a plan was adopted pursuant to subsection 2;~~

C. The references in Title ~~13-A, section 909, subsection 11 to a shareholder's "objection" and "demand" and the reference in Title 13-A, section 909, subsection 13~~ 13-C, chapter 13, subchapter 3 to a shareholder's "demand for payment

under section 1327" ~~shall be~~ is deemed to refer to a shareholder's notice and demand filed pursuant to subsection 6;

~~D. The references in Title 13-A, section 909, subsection 9 to "the date on which such corporate action was effected" shall be deemed to refer to the date of delivery of the plan or a summary thereof as provided in subsection 4;~~

E. The reference in Title ~~13-A~~ 13-C, section ~~909~~ 1331, subsection ~~9, paragraph A~~ 2 to the county in the State where the principal office or the registered office of the domestic corporation merged with the foreign corporation is located ~~shall be~~ is deemed, where the parent corporation ~~which~~ that has adopted the plan is neither a domestic corporation nor an authorized insurer, to include the county where the registered office of the subsidiary domestic stock insurance company whose stock is being acquired is located;

~~F. The reference in Title 13-A, section 909, subsection 9, paragraph E to "this section" shall be deemed to include this section; and~~

~~G. The references in Title 13-A, section 909, subsection 9 to "subsection 8" shall be deemed to refer to subsection 9.~~

H. Title 13-C, section 1331, subsection 5, paragraph B does not apply; and

I. The reference in Title 13-C, section 1332, subsection 2, paragraph A to the corporation's failure to substantially comply with the requirements of section 1321, 1323, 1325 or 1326 is deemed to refer to the corporation's failure to comply with this section, and the reference in Title 13-C, section 1332, subsection 4 to the failure of the corporation to make required payments pursuant to section 1325, 1326 or 1327 is deemed to refer to the failure of the corporation to make required payments under this section.

Sec. D-15. 24-A MRSA §3486, sub-§11, as enacted by PL 1977, c. 377, is repealed.

Sec. D-16. 24-A MRSA §3486, sub-§§12 and 14, as enacted by PL 1977, c. 377, are amended to read:

12. If the court determines pursuant to Title ~~13-A, section 909, subsection 9, paragraph E~~ 13-C, chapter 113, subchapter 3 that a shareholder is not entitled to receive payment of the fair value of ~~his~~ the shareholder's shares because of ~~his~~ the shareholder's failure to satisfy the requirements of Title ~~13-A, section 909~~ 13-C, chapter 113, subchapter 3 and of this section, then the shareholder shall receive the consideration ~~which~~ that was specified as payment in exchange for ~~his~~ the shareholder's shares pursuant to the plan. Such payment ~~shall~~ may not include the allowance for interest specified in Title ~~13-A~~ 13-C, section ~~909~~ 1331, subsection ~~9, paragraph G~~ 5.

14. The provisions of Title ~~13-A, section 525, regarding unclaimed dividends and other distributions to shareholders shall~~ 33, chapter 41 apply to any unclaimed payment to which a shareholder may be entitled under this section.

Sec. D-17. 31 MRSA §282, sub-§5-A, as enacted by PL 1995, c. 633, Pt. A, §1, is amended to read:

5-A. Professional limited liability partnership. "Professional limited liability partnership" means a registered limited liability partnership that, by virtue of the business conducted by it, would be ~~subject to the~~ required to incorporate under the Maine Professional Service Corporation Act if that partnership were a corporation.

Sec. D-18. 31 MRSA §418, as enacted by PL 1999, c. 638, §13, is amended to read:

§418. Conversion of limited partnership

1. Definitions. For purposes of this section, "business entity" means any association or legal entity organized to conduct business, including a domestic or foreign corporation, limited liability company, limited partnership, general partnership, limited liability partnership, joint venture, joint stock company and business trust.

2. Authority. A ~~business entity~~ limited partnership may convert to another type of business entity by complying with the requirements of section 419 and Title ~~13-A, section 912~~ 13-C, chapter 9, subchapter 4.

Sec. D-19. 31 MRSA §611, first ¶, as repealed and replaced by PL 1995, c. 633, Pt. C, §16, is amended to read:

A limited liability company may be organized under this chapter for any lawful purpose. If the purpose for which a limited liability company is organized or its form makes it subject to a special provision of law, the limited liability company shall also comply with that provision. This section is specifically intended to permit the formation of a professional limited liability company by a person or persons who may form a professional corporation under the Maine Professional Service Corporation Act. The provisions of that Act are incorporated in this chapter by reference, except as follows.

Sec. D-20. 31 MRSA §746, as enacted by PL 1999, c. 638, §34, is amended to read:

§746. Conversion of limited liability company

1. Definitions. For purposes of this section, "business entity" means any association or legal entity organized to conduct business, including a domestic or foreign corporation, limited liability company, limited partnership, general partnership, limited liability partnership, joint venture, joint stock company and business trust.

2. Authority. A ~~business entity~~ limited liability company may convert to another type of business entity by complying with the requirements of section 747 and Title ~~13-A, section 912~~ 13-C, chapter 9, subchapter 4.

Sec. D-21. 32 MRSA §1081, sub-§4, as amended by PL 1993, c. 600, Pt. A, §63, is further amended to read:

4. Corporations; names. A corporation may not practice, offer or undertake to practice or hold itself out as practicing dentistry. Every person practicing dentistry as an employee of another shall cause that person's name to be conspicuously displayed and kept in a conspicuous place at the entrance of the place where the practice is conducted. This subsection does not prohibit a licensed dentist from practicing dentistry as an employee of another licensed dentist in this State, as an employee of a nonprofit corporation, as an employee of a state hospital or state institution where the only remuneration is from the State or from a corporation that provides dental service for its employees at no profit to the corporation. This subsection does not prohibit the practice of dentists who have incorporated their practices ~~as permitted by~~ pursuant to Title 13, chapter ~~22~~ 22-A.

Sec. D-22. 32 MRSA §12252, sub-§3, as amended by PL 2001, c. 260, Pt. F, §2, is further amended to read:

3. Firm permits. ~~Notwithstanding Title 13, section 710 and Title 31, section 611, the~~ The following provisions apply to the issuance of firm permits.

A. An applicant for initial issuance or renewal of a permit to practice under this section shall show that a simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members or managers, belongs to holders of certificates who are licensed in a state and that all partners, officers, shareholders, members or managers whose principal place of business is in this State or who perform professional services in this State hold valid individual permits issued by the board. Firms may include nonlicensee owners in accordance with paragraph B.

B. A certified public accountancy firm or public accountancy firm may include nonlicensee owners as long as:

(1) All nonlicensee owners are individuals who actively participate in the certified public accountancy firm or public accountancy firm; and

(2) The firm complies with such other requirements as the board may impose by rule.

Sec. D-23. 35-A MRSA §2110, sub-§2, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

2. The commission's powers and limitations. The commission's powers and limitations, made applicable under this section, are those applicable by law in like cases concerning public utilities organized under Title ~~13-A~~ 13-C or any prior general corporation law.

Sec. D-24. 35-A MRSA §3204, sub-§7, as enacted by PL 1997, c. 316, §3, is amended to read:

7. Corporate law; exemptions. An order of the commission directing or approving divestiture renders an electric utility and its directors, officers and shareholders exempt from Title ~~13-A~~ 13-C, ~~sections 514, 517, 624 and 720~~ section 651 and from the Uniform Fraudulent Transfer Act, Title 14, chapter 504 for the matters addressed by the order. A divestiture pursuant to a commission order directing or approving the divestiture ~~does not constitute a sale of all or substantially all of the assets of a corporation within the meaning of Title 13-A, chapter 10~~ is not subject to limitations contained in the corporation's articles of incorporation and, notwithstanding Title 13-C, chapter 12, does not require shareholder approval.

Sec. D-25. 35-A MRSA §4502, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Organization of corporations to construct pipelines. Corporations for the purpose of constructing and operating natural gas pipelines may be organized under Title ~~13-A~~ 13-C. Following organization under former Title 13-A or Title 13-C, the corporation has all the other rights, privileges and immunities of a legal corporation organized under Title ~~13-A~~ 13-C, except as they are inconsistent with this chapter.

Sec. D-26. 36 MRSA §4641-C, sub-§7, as amended by PL 1999, c. 638, §44, is further amended to read:

7. Deeds pursuant to mergers or consolidations. Deeds made pursuant to mergers or consolidations ~~of business entities, as defined in Title 13-A, section 912~~ carried out pursuant to Title 13-C, chapter 11, from which no gain or loss is recognized under the Internal Revenue Code;

Sec. D-27. 39-A MRSA §102, sub-§11, ¶A, as amended by PL 2001, c. 710, §18 and affected by §19, is amended by amending subparagraph (4) to read:

(4) Except for persons engaged in harvesting of forest products, any person who, in a written statement to the board, waives all the benefits and privileges provided by the workers' compensation laws, provided that the board has found that person to be a bona fide owner of at least 20% of the outstanding voting stock of the corporation by which that person is employed or a shareholder of the professional corporation by which that person is employed and that this waiver was not a prerequisite condition to employment. For the purposes of this subparagraph, the term "professional corporation" ~~has the same meaning as found~~ means a domestic or foreign professional corporation as defined in Title 13, section ~~703~~ 723~~, subsection 1~~.

Any person may revoke or rescind that person's waiver upon 30 days' written notice to the board and that person's employer. The parent, spouse or child of a person who has made a waiver under the previous sentence may state, in writing, that the parent, spouse or child waives all the benefits and privileges provided by the workers' compensation laws if the board finds that the waiver is not a prerequisite condition to employment and if the parent, spouse or child is employed by the same corporation that employs the person who has made the first waiver;

Sec. D-28. 39-A MRSA §324, sub-§3, ¶C, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

C. The employer, if organized as a corporation, is subject to administrative dissolution as provided in Title 13-C, section 1421 or revocation ~~or suspension~~ of its authority to do business in this State as provided in Title ~~13-A~~ 13-C, section ~~1302~~ 1532. The employer, if licensed, certified, registered or regulated by any board authorized by Title 5, section 12004-A or whose license may be revoked or suspended by proceedings in the District Court or by the Secretary of State, is subject to revocation or suspension of the license, certification or registration.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect July 1, 2003.

Effective July 1, 2003.

CHAPTER 345

S.P. 463 - L.D. 1407

An Act To Clarify the Timber Harvesting Notification Requirements

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 12 MRSA §8883, sub-§5, as amended by PL 1999, c. 361, §7, is further amended to read:

5. Notification exemption. The following activities are exempt from the notification requirement under this section:

A. Activities where forest products are harvested for an owner's own use and are not sold or offered for sale or used in the owner's primary wood-using plants;

B. Precommercial silvicultural forestry activities; and

C. Harvesting performed by the landowner within a 12-month period when the total area harvested on land owned by that landowner does not exceed:

(1) Two acres if the residual basal area of acceptable growing stock over 4 1/2 inches in diameter measured at 4 1/2 feet above the ground is less than 30 square feet basal area per acre; or

(2) Five acres if the residual basal area of acceptable growing stock over 4 1/2 inches in diameter measured at 4 1/2 feet above the ground is more than 30 square feet basal area per acre.

See title page for effective date.