

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1639

S.P. 534

In Senate, March 24, 1997

An Act to Amend the Corporate Laws.

Reference to the Committee on Judiciary suggested and*ordered printed.
Submitted by the Secretary of State pursuant to Joint Rule 204.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator LONGLEY of Waldo.

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

2
4 **Sec. 1. 10 MRSA §1522, sub-§2**, as amended by PL 1987, c. 561, §1, is further amended to read:

6 **2. Application for registration.** Subject to the limitations set forth in this chapter, any person who adopts and uses a mark in this State may file in the office of the Secretary of State, on a form to be furnished by the Secretary of State, an application for registration of that mark setting forth, but not limited to, the following information:

12 A. The name and business address of the person applying for the registration and, if a corporation, the state of incorporation;

16 B. The goods or services in connection with which the mark is used and the mode or manner in which the mark is used in connection with the goods or services and the class in which the goods or services fall;

20 C. The date when, to the best of the applicant's knowledge and belief, the mark was first used anywhere and the date when it was first used in this State by the applicant or his the applicant's predecessor in business; and

24 D. A statement that the applicant ~~believes-himself-to-be~~ is the owner of the mark and that no other person to the best of ~~his the applicant's~~ the applicant's knowledge and belief has the right to use the mark in this State as a mark or as a trade name or as a corporate name either in the identical form thereof or in such near resemblance thereto as to be likely, when applied to the goods or services of the other person, to cause confusion or to cause mistake or to deceive.

28 The application shall must be signed and verified by the applicant or by a member of the firm or an officer of the corporation or association applying.

32 The execution of an application containing false statements constitutes unsworn falsification under Title 17-A, section 453.

36 The application shall must be accompanied by a specimen or facsimile of the mark in triplicate.

40 The application for registration shall must be accompanied by a filing fee of \$50 for the first class and \$10 for each additional class, payable to the Treasurer of State.

44 **Sec. 2. 10 MRSA §1523**, as enacted by PL 1979, c. 572, §2, is amended to read:

2
3 **§1523. Attested copy**

4 Upon compliance by the applicant with the requirements of
5 this chapter, the Secretary of State shall ~~cause a certificate of~~
6 ~~registration to be issued and delivered to the applicant. The~~
7 ~~certificate of registration shall be issued under the signature~~
8 ~~of the Secretary of State and the seal of the State and it shall~~
9 ~~show the name and business address and, if a corporation, the~~
10 ~~state of incorporation of the person claiming ownership of the~~
11 ~~mark, the date claimed for the first use of the mark in this~~
12 ~~State, the class of goods or services and a description of the~~
13 ~~goods or services on which the mark is used, a reproduction of~~
14 ~~the mark, the registration date and the term of the registration~~
15 promptly make a copy of the original and attest that copy by
16 marking upon it the same endorsement that is required to appear
17 upon the original, together with a further endorsement that the
18 copy is a true copy of the original document. The attested copy
19 must be returned to the person submitting the document for filing
20 or to that person's representative.

21
22 ~~Any certificate of registration~~ An attested copy issued by
23 the Secretary of State under this section or a copy duly
24 certified by the Secretary of State shall ~~be~~ is admissible in
25 evidence as competent and sufficient proof of the registration of
26 the mark in any action or judicial proceedings in any court of
27 this State.

28 **Sec. 3. 10 MRSA §1525, sub-§1**, as amended by PL 1987, c. 561,
29 §3, is further amended to read:

30
31 **1. Recording.** Any mark and its registration shall ~~be~~ are
32 assignable with the good will of the business in which the mark
33 is used or with that part of the good will of the business
34 connected with the use of and symbolized by the mark. Assignment
35 shall must be by an instrument in writing duly executed and may
36 be recorded with the Secretary of State upon the payment of a fee
37 of \$40 payable to the Treasurer of State. The Secretary of State,
38 upon recording of an assignment, shall issue an attested copy in
39 the name of the assignee ~~a new certificate. The assignment is~~
40 valid for the remainder of the term of the registration or of the
41 last renewal. An assignment of any registration under this
42 chapter shall ~~be~~ is void as against any subsequent purchaser for
43 valuable consideration without notice, unless it is recorded with
44 the Secretary of State within 3 months after the date thereof or
45 prior to the subsequent purchase.

46
47 **Sec. 4. 10 MRSA §1525, sub-§2**, as amended by PL 1995, c. 633,
48 Pt. C, §3, is further amended to read:

49
50 **2. Corporate, limited liability company or partnership**
51 **name.** Any holder ~~of a certificate of registration issued~~
52 registrant of a mark that has been duly recorded pursuant to

2 section 1523 may grant to any domestic or foreign corporation,
3 limited liability company, limited liability partnership or
4 limited partnership authorized to do business in this State the
5 exclusive right to the use of a name similar to ~~the~~ that mark
6 ~~shown-on-the-certificate.~~

7 **Sec. 5. 10 MRSA §1525-A,** as enacted by PL 1991, c. 465, §12,
8 is amended to read:

9 **§1525-A. Amendment**

10 The registration of a mark may be amended by adding or
11 removing one or more classes of goods and services under section
12 1527, subsection 2. The amendment must be in writing and
13 recorded with the Secretary of State and accompanied by a filing
14 fee of \$10 for each class affected, payable to the Treasurer of
15 the State. The Secretary of State may prescribe a form for this
16 purpose. The Secretary of State upon recording of an amendment
17 shall issue ~~a new certificate~~ an attested copy. The amendment is
18 valid for the remainder of the term of the registration or of the
19 last renewal.

20 **Sec. 6. 10 MRSA §1527, sub-§2, ¶A,** as corrected by RR 1991, c.
21 2, §32, is amended by amending subparagraph (19) to read:

22 (19) Building materials, natural and artificial stone,
23 cement, lime, mortar, plaster and gravel; pipes of
24 earthenware ~~of~~ or cement; road-making materials;
25 asphalt, pitch and bitumen; portable buildings; stone
26 monuments and chimney pots;

27 **Sec. 7. 13-A MRSA §104, sub-§1,** as amended by PL 1989, c. 501,
28 Pt. L, §§7 to 9, is further amended to read:

29 **1.** The document shall must be signed:

30 **A.** In the case of articles of incorporation, by the
31 incorporator or incorporators and by the clerk as required
32 by section 304, subsection 2-A;

33 **B.** In the case of other documents:

34 (1) By the clerk; or

35 (2) By the president or a vice-president, and by the
36 secretary or an assistant secretary or such other
37 officer as the bylaws may designate as a second
38 certifying officer; or

39 (3) If there are no such officers, then by a majority
40 of the directors or by such directors as may be

designated by a majority of directors then in office;
or

(4) If there are no such directors, then by the holders, or such of them as may be designated by the holders, of record of a majority of all outstanding shares entitled to vote thereon; or

(5) By the holders of all of the outstanding shares of the corporation; and

C. In the case of annual reports, as provided in section 1301, subsection 3,; and

D. In the case of an application for authority to do business, as provided by paragraph B and by the registered agent as required by section 1212, subsection 1-A.

Sec. 8. 13-A MRSA §304, sub-§2-A is enacted to read:

2-A. Unless the clerk signed the document making the appointment, the appointment of a clerk or a successor clerk on whom process may be served is not effective until the clerk delivers a written statement to the Secretary of State accepting the appointment.

Sec. 9. 13-A MRSA §402, sub-§2, as amended by PL 1991, c. 780, Pt. U, §6, is further amended to read:

2. The incorporator or incorporators may be natural persons or domestic or foreign corporations, whether or not authorized to do business or carry on activities in this State, or any combination of natural persons or domestic or foreign corporations. If a corporation acts as an incorporator, the articles of incorporation must be accompanied by a certificate of an appropriate officer of that corporation, not the person signing the articles, certifying that the person executing the articles on its behalf is authorized to do so.

Sec. 10. 13-A MRSA §809, sub-§3, as amended by PL 1973, c. 483, §12, is further amended to read:

3. Upon adoption of the restatement, a form entitled "Restated Articles of Incorporation" shall must be executed, in accordance with ~~Section~~ section 104, ~~which shall that must~~ set forth the same information as is required by section 807 in the case of articles of amendment substituting, wherever applicable, the word "restatement" for the word "amendment" and shall must have the restatement attached thereto as an exhibit. Upon filing the restated articles with the restatement by the Secretary of State, in accordance with ~~Section~~ section 106, the original

2 articles of incorporation as amended and supplemented shall--be
3 are superseded, and the restatement, including any further
4 amendments and changes made thereby, shall-be are the articles of
5 incorporation of the corporation.

6 **Sec. 11. 13-A MRSA §1202, sub-§1, ¶¶E and F,** as enacted by PL
7 1971, c. 439, §1, are amended to read:

8
9 E. The address of the registered or principal office of the
10 corporation in the jurisdiction of its incorporation or the
11 principal office wherever located;

12
13 F. The address of its proposed registered office in this
14 State and the name of its proposed registered agent in this
15 State at such address; and

16
17 **Sec. 12. 13-A MRSA §1207, sub-§1, ¶C,** as enacted by PL 1991,
18 c. 465, §19, is amended to read:

19
20 C. Change the address of its registered office or principal
21 office ~~in-its-jurisdiction-of-incorporation.~~

22
23 **Sec. 13. 13-A MRSA §1212, sub-§1-A** is enacted to read:

24
25 1-A. Unless the registered agent signed the document making
26 the appointment, the appointment of a registered agent or a
27 successor registered agent on whom process may be served is not
28 effective until the agent delivers a written statement to the
29 Secretary of State accepting the appointment.

30
31 **Sec. 14. 13-A MRSA §1212, sub-§2,** as amended by PL 1973, c.
32 483, §19, is further amended to read:

33
34 2. A foreign corporation may change its registered agent
35 and registered office or its registered agent, ~~--or--both,~~ by
36 executing and filing, in accordance with sections 104 and 106, a
37 statement setting forth:

38
39 A. The name of the corporation;

40
41 B. Its jurisdiction of incorporation;

42
43 C. The date of its authorization to do business in this
44 State;

45
46 D. The address of its then registered office;

47
48 E. If its registered office is to be changed, the address
49 to which the registered office is to be changed;

50
51 F. The name of its then registered agent;

52

2 G. If its registered agent is to be changed, the name of
its successor registered agent;

4 H. That the registered agent has a business office at the
registered office, after giving effect to the changes
6 stated; and

8 I. That each change therein stated was authorized by the
board of directors.

10 **Sec. 15. 13-A MRSA §1301, sub-§1, ¶B**, as amended by PL 1989,
12 c. 732, §3, is further amended to read:

14 B. The address of the registered office of the corporation
in this State, and the name of its clerk, if a domestic
16 corporation, or its registered agent, if a foreign
corporation, in this State at such that address, including
18 the street or rural route number, town or city, and state;
and, in the case of a foreign corporation, the address of
20 its registered or principal office ~~in its jurisdiction of~~
~~incorporation~~;

22 **Sec. 16. 13-A MRSA §1401, sub-§11**, as amended by PL 1989, c.
24 501, Pt. L, §27, is further amended to read:

26 11. Assumed name statement, as provided by section 307,
\$105 or, if the true corporate name is not available, pursuant to
28 section 301, §20;

30 **Sec. 17. 13-B MRSA §104, sub-§1**, as amended by PL 1989, c.
501, Pt. L, §§33 and 34, is further amended to read:

32 1. **Signature required.** The document shall must be signed:

34 A. In the case of articles of incorporation, by the
36 incorporator or incorporators and by the registered agent as
required by section 304, subsection 3;

38 B. In the case of other documents:

40 (1) By the clerk or secretary;

42 (2) By the president or a vice-president and by the
44 secretary or an assistant secretary, or such other
officer as the bylaws may designate as a 2nd certifying
46 officer;

48 (3) If there are no such officers, then by a majority
of the directors or by such directors as may be
50 designated by a majority of directors then in office;
or

2 (4) If there are no such directors, then by the
4 members or such of them as may be designated by the
members at a lawful meeting; or

6 C. In the case of annual reports, as provided in section
1301, subsection 3; or

8
10 D. In the case of an application for authority to carry on
activities, as provided by paragraph B and by the registered
agent as required by section 1212, subsection 1-A;

12 **Sec. 18. 13-B MRSA §202, sub-§1, ¶O**, as enacted by PL 1977, c.
14 525, §13, is amended to read:

16 O. To purchase, take, receive, subscribe for or otherwise
18 acquire, own, hold, vote, use, employ, sell, mortgage, lend,
pledge or otherwise use and deal in and with:

20 (1) The shares or other interests in or obligations of
22 domestic business or foreign business corporations,
~~association~~ associations, partnerships or individuals;
and

24 (2) The obligations of the United States or any other
26 government, state, territory, municipality or
28 governmental district, or of any instrumentality
thereof;

30 **Sec. 19. 13-B MRSA §303, sub-§1**, as amended by PL 1979, c.
32 572, §14, is further amended to read:

34 **1. Name registered.** Any corporation organized and existing
under the laws of any state or territory of the United States may
36 register its corporate name under this Act, provided its
corporate name is not the same as, or deceptively similar to, the
38 name of any domestic business or nonprofit corporation existing
under the laws of this State, or the name of any foreign business
or nonprofit corporation authorized to carry on activities in
40 this State, or any corporate name reserved or registered under
Title 13-A or this section or section 302, or any ~~trade-mark~~
42 trademark or service mark registered under Title 10, chapter
301-A.

44 **Sec. 20. 13-B MRSA §304, sub-§3** is enacted to read:

46 **3. Acceptance of designation of agent.** Unless the
48 registered agent signed the document making the appointment, the
appointment of a registered agent or a successor registered agent
50 on whom process may be served is not effective until the agent

2 delivers a written statement to the Secretary of State accepting
3 the appointment.

4 **Sec. 21. 13-B MRSA §305**, as amended by PL 1993, c. 316, §39,
5 is further amended by repealing and replacing the headnote to
6 read:

7 **§305. Registered agent; registered office; changes**

8
9
10 **Sec. 22. 13-B MRSA §305, sub-§1**, as enacted by PL 1977, c.
11 525, §13, is amended to read:

12
13 **1. Registered agent, registered office and changes.** A
14 corporation may change its registered office ~~or change its~~
15 ~~registered agent, or both,~~ agent and registered office or its
16 registered agent by executing and delivering for filing, as
17 provided by sections 104 and 106, a statement setting forth:

- 18 A. The name of the corporation;
19
20 B. The address of its then registered office;
21
22 C. If the address of its registered office is changed, the
23 address to which the registered office is to be changed;
24
25 D. The name of its then registered agent;
26
27 E. If its registered agent is changed, the name of its
28 successor registered agent;
29
30 F. That the address of its registered office and the
31 address of the office of its registered agent, as changed,
32 will be identical; and
33
34 G. That such change was authorized by resolution duly
35 adopted by its board of directors.

36
37 **Sec. 23. 13-B MRSA §305, sub-§2**, as amended by PL 1993, c.
38 316, §39, is further amended to read:

39
40 **2. Resignation of agent.** Any registered agent of a
41 corporation may resign as that agent upon filing a written notice
42 thereof with the Secretary of State and by mailing a copy thereof
43 to the corporation in care of an officer who is not the resigning
44 registered agent, at the address of such officer as shown by the
45 most recent annual report of the corporation. The appointment of
46 an agent terminates ~~upon receipt of such notice~~ on the date of
47 the filing of the notice by the Secretary of State.

48
49 **Sec. 24. 13-B MRSA §401, sub-§3**, as enacted by PL 1991, c.
50 780, Pt. U, §14, is amended to read:
51
52

2 **3. Incorporators.** The incorporator or incorporators may be
4 natural persons or domestic or foreign corporations, whether or
6 not authorized to do business or carry on activities in this
8 State, or any combination of natural persons or domestic or
foreign corporations. If a corporation acts as an incorporator,
the articles of incorporation must be accompanied by a
certificate of an appropriate officer of that corporation, not
the person signing the articles, certifying that the person
executing the articles on its behalf is authorized to do so.

10 **Sec. 25. 13-B MRSA §403, sub-§1, ¶E**, as enacted by PL 1977, c.
12 525, §13, is amended to read:

14 E. The number of directors constituting the initial board
16 ~~of directors if they have been designated or elected if the~~
number has been designated or if the initial directors have
been chosen;

18 **Sec. 26. 13-B MRSA §1202, sub-§1, ¶E**, as enacted by PL 1977,
20 c. 525, §13, is amended to read:

22 E. The address of the registered or principal office of the
24 corporation in the jurisdiction of its incorporation or the
principal office wherever located; and

26 **Sec. 27. 13-B MRSA §1207, sub-§1, ¶C**, as enacted by PL 1991,
28 c. 465, §29, is amended to read:

30 C. Change the address of its registered office or principal
office ~~in its jurisdiction of incorporation.~~

32 **Sec. 28. 13-B MRSA §1212, sub-§1-A** is enacted to read:

34 **1-A. Acceptance of designation of agent.** Unless the
36 registered agent signed the document making the appointment, the
appointment of a registered agent or a successor registered agent
38 on whom process may be served is not effective until the agent
delivers a written statement to the Secretary of State accepting
the appointment.

40 **Sec. 29. 13-B MRSA §1212, sub-§2**, as enacted by PL 1977, c.
42 525, §13, is amended by amending the first paragraph to read:

44 **2. Registered agent, registered office and changes:** A
46 foreign corporation may change its registered office ~~or its~~
~~registered agent, or both,~~ agent and registered office or its
48 registered agent by executing and filing, in accordance with
sections 104 and 106, a statement setting forth:

50 **Sec. 30. 13-B MRSA §1301, sub-§1, ¶B**, as repealed and replaced
52 by PL 1993, c. 680, Pt. A, §23, is amended to read:

2 B. The address of the registered office of the corporation
3 in this State and the name of its agent for service of
4 process if a domestic corporation, or its registered agent
5 if a foreign corporation in this State, at that address,
6 including the street or rural route number, town or city and
7 state and, if a foreign corporation, the address of its
8 registered or principal office ~~in--its--jurisdiction--of
incorporation~~; and

10 **Sec. 31. 13-B MRSA §1401, sub-§14**, as amended by PL 1979, c.
11 127, §107, is further amended to read:

12 **14. Articles of merger or consolidation.** Articles of merger
13 or consolidation, as provided by section 904, §10; and if the
14 merger or consolidation changes the ~~corporation's~~ survivor's
15 purposes, a further additional amount of \$5;

18 **Sec. 32. 31 MRSA §403, sub-§6** is enacted to read:

20 6. Name search service. To assist the public in
21 determining the availability of a limited partnership name, the
22 Secretary of State may make available to the public a name search
23 service. Name searches conducted by the Secretary of State are
24 preliminary in nature and may not reserve or register a limited
25 partnership name or ensure the availability of a limited
26 partnership name.

28 **Sec. 33. 31 MRSA §407, sub-§1-A** is enacted to read:

30 1-A. Acceptance of designation of agent. Unless the
31 registered agent signed the document making the appointment, the
32 appointment of a registered agent or a successor registered agent
33 on whom process may be served is not effective until the agent
34 delivers a written statement to the Secretary of State accepting
35 the appointment.

36 **Sec. 34. 31 MRSA §424, sub-§1, ¶A**, as enacted by PL 1991, c.
37 552, §2 and affected by §4, is amended to read:

40 A. In the case of an initial certificate of limited
41 partnership, by all general partners and by the registered
42 agent as required by section 407, subsection 1-A;

44 **Sec. 35. 31 MRSA §424, sub-§3**, as enacted by PL 1991, c. 552,
45 §2 and affected by §4, is repealed and the following enacted in
46 its place:

48 3. Unsworn falsification. The execution of a certificate
49 containing false statements constitutes unsworn falsification
50 under Title 17-A, section 453.

2 **Sec. 36. 31 MRSA §492, sub-§2**, as enacted by PL 1991, c. 552,
§2 and affected by §4, is amended to read:

4 **2. General partner.** The foreign limited partnership shall
submit an application for authority to do business to the
6 Secretary of State executed by a general partner and by the
registered agent as required by section 494, subsection 2-A on a
8 form prescribed by or furnished by the Secretary of State.

10 **Sec. 37. 31 MRSA §492, sub-§3, ¶I**, as enacted by PL 1993, c.
316, §57, is amended to read:

12 I. The address of the registered or principal office of the
14 limited partnership in the jurisdiction of its organization
or the principal office wherever located.

16 **Sec. 38. 31 MRSA §494, sub-§2-A** is enacted to read:

18 **2-A. Acceptance of designation of agent.** Unless the
20 registered agent signed the document making the appointment, the
appointment of a registered agent or a successor registered agent
22 on whom process may be served is not effective until the agent
delivers a written statement to the Secretary of State accepting
24 the appointment.

26 **Sec. 39. 31 MRSA §495, 2nd ¶**, as enacted by PL 1995, c. 458,
§15, is amended to read:

28 If there is a change in the address of one or more of the
30 general partners from that appearing on the record of the office
of the Secretary of State, the application must be amended to set
32 forth the new business, residence or mailing address of each
partner. A general partner must shall also file an amendment to
34 the application if the address of the registered or principal
office of the limited partnership changes ~~in the jurisdiction of~~
36 ~~its organization.~~

38 **Sec. 40. 31 MRSA §499, sub-§2**, as enacted by PL 1993, c. 316,
§64, is repealed and the following enacted in its place:

40 **2. Unsworn falsification.** Section 424, subsection 3,
42 governing unsworn falsification, and section 427, on liability
for materially inaccurate statements, apply to foreign limited
44 partnerships as if the application for authority to do business
were a certificate of limited partnership.

46 **Sec. 41. 31 MRSA §524, sub-§1, ¶B**, as enacted by PL 1991, c.
48 552, §2 and affected by §4, is amended to read:

50 B. The provisions of section 403, subsection 1, paragraph A
52 requiring that the name of all limited partnerships contain
the words "Limited Partnership" , the abbreviation "L.P."

2 or the designation "LP" do not apply to a limited
3 partnership formed before January 1, 1992 or a foreign
4 limited partnership having obtained the authority to do
5 business in this State before January 1, 1992 until such
6 time as the limited partnership has filed an amendment to
7 its certificate of limited partnership or application for
8 authority to do business as a foreign limited partnership
pursuant to subsection 2;

10 **Sec. 42. 31 MRSA §526, sub-§§1 and 2**, as enacted by PL 1991, c.
11 552, §2 and affected by §4, are amended to read:

12
13 **1. Reservation.** For filing of an application for
14 reservation of name, ~~an application for renewal of reservation~~ or
15 a notice of transfer or cancellation of reservation pursuant to
16 section 404, a fee in the amount of \$20 for each limited
17 partnership affected;

18
19 **2. Assumed name.** For filing of an application for an
20 assumed name under section 405, a fee in the amount of \$105. The
21 addition of the words "Limited Partnership" , "the abbreviation
22 "L.P." or the designation "LP" to a foreign ~~corporation's~~ limited
23 partnership's name for use in this State is not, for the purpose
24 of this section, deemed an assumed name;

25 **Sec. 43. 31 MRSA §526, sub-§8**, as amended by PL 1995, c. 458,
26 §17, is further amended to read:

27
28 **8. Foreign limited partnerships.** For filing of an
29 application for authority to do business as a foreign limited
30 partnership under section 492, a certificate of amendment under
31 section 495, except as provided in subsection 9, or a certificate
32 of cancellation under section 496, a fee in the amount of \$250.
33 For filing a certificate of amendment under section 495 to change
34 the address of a general partner or to change the address of the
35 registered or principal office ~~in the jurisdiction of its~~
36 ~~organization~~, a fee in the amount of \$30;

37
38 **Sec. 44. 31 MRSA §526, sub-§16**, as amended by PL 1993, c. 316,
39 §72, is further amended to read:

40
41 **16. Information request.** For written response to a request
42 for information on file, \$5; and

43
44 **Sec. 45. 31 MRSA §526, sub-§17**, as amended by PL 1993, c. 316,
45 §73, is further amended to read:

46
47 **17. Service of process on Secretary of State as agent.** For
48 accepting service of process under sections 409, 410, 500 or 501,
49 a fee in the amount of \$20+ ; and

50
51 **Sec. 46. 31 MRSA §526, sub-§18** is enacted to read:

2 18. Report of name search. For report of name search as
provided by section 403, subsection 6, §10.

4
6 **Sec. 47. 31 MRSA §529, sub-§1, ¶B,** as enacted by PL 1991, c.
780, Pt. U, §32, is amended to read:

8 B. The name of its registered agent and the address of its
registered office in this State, including the street or
10 rural route number, town or city and state, and, in the case
of a foreign limited partnership, the address of its
12 registered or principal office ~~in its jurisdiction of~~
~~organization;~~

14 **Sec. 48. 31 MRSA §603, sub-§§4, 5 and 6** are enacted to read:

16 4. Name search service. To assist the public in
18 determining the availability of a limited liability company name,
the Secretary of State may make available to the public a name
20 search service. Name searches conducted by the Secretary of
State are preliminary in nature and may not reserve or register a
22 limited liability company name or ensure the availability of a
limited liability company name.

24 5. Final determination of availability. The Secretary of
26 State shall make the final determination regarding the
availability of a name for filing.

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

32 A. Consists of or comprises language that is obscene,
contemptuous, profane or prejudicial;

34 B. Inappropriately promotes abusive or unlawful activity; or

36 C. Falsely suggests an association with public institutions.

38 **Sec. 49. 31 MRSA §623, sub-§4,** as enacted by PL 1993, c. 718,
40 Pt. A, §1, is amended to read:

42 **4. Right to amend at any time.** Except as otherwise
provided in the articles of organization, articles of
44 organization may be amended at any time for any other purpose a
majority in interest of the members may determine necessary.

46 **Sec. 50. 31 MRSA §626, sub-§6,** as enacted by PL 1993, c. 718,
48 Pt. A, §1, is amended to read:

50 **6. Effect of filed statement.** Except as provided in
subsection 5 and ~~Sections~~ sections 625 and 694, a person not a
52 member or manager is not deemed to know of a limitation on the

2 authority of a member or manager merely because the limitation is
3 contained in a filed statement.

4 **Sec. 51. 31 MRSA §627, sub-§1, ¶A**, as enacted by PL 1993, c.
5 718, Pt. A, §1, is amended to read:

6
7 A. In the case of the initial articles of organization, by
8 the person or persons forming the limited liability company
9 and the registered agent as required by section 607,
10 subsection 2;

11
12 **Sec. 52. 31 MRSA §627, sub-§3**, as enacted by PL 1993, c. 718,
13 Pt. A, §1, is repealed and the following enacted in its place:

14
15 **3. Unsworn falsification.** The execution of a certificate
16 or articles containing false statements constitutes unsworn
17 falsification under Title 17-A, section 453.

18
19 **Sec. 53. 31 MRSA §712, sub-§2**, as enacted by PL 1993, c. 718,
20 Pt. A, §1, is amended to read:

21
22 **2. Execution.** The foreign limited liability company shall
23 submit an application for authority to do business to the
24 Secretary of State, executed by a person with authority to do so
25 under the laws of the state or other jurisdiction of its
26 formation and by the registered agent as required by section 714,
27 subsection 2-A on a form prescribed by or furnished by the
28 Secretary of State.

29
30 **Sec. 54. 31 MRSA §712, sub-§3, ¶I**, as corrected by RR 1995, c.
31 2, §78, is amended to read:

32
33 I. The address of the registered or principal office of the
34 limited liability company in the jurisdiction of its
35 organization or the principal office wherever located.

36
37 **Sec. 55. 31 MRSA §714, sub-§2-A** is enacted to read:

38
39 **2-A. Acceptance of designation of agent.** Unless the
40 registered agent signed the document making the appointment, the
41 appointment of a registered agent or a successor registered agent
42 on whom process may be served is not effective until the agent
43 delivers a written statement to the Secretary of State accepting
44 the appointment.

45
46 **Sec. 56. 31 MRSA §721, sub-§2**, as enacted by PL 1993, c. 718,
47 Pt. A, §1, is repealed and the following enacted in its place:

48
49 **2. Unsworn falsification.** Section 627, subsection 3,
50 governing unsworn falsification, and section 630, on liability
51 for

2 materially inaccurate statements, apply to foreign limited
3 liability companies as if the application for authority to do
4 business were the articles of organization of a limited liability
5 company.

6 **Sec. 57. 31 MRSA §751, sub-§1**, as enacted by PL 1993, c. 718,
7 Pt. A, §1, is amended to read:

8 **1. Reservation.** For filing of an application for
9 reservation of name, ~~an application for renewal of reservation~~ or
10 a notice of transfer or cancellation of reservation pursuant to
11 section 604, a fee of \$20 for each limited liability company
12 affected;

13 **Sec. 58. 31 MRSA §751, sub-§12**, as amended by PL 1995, c. 458,
14 §23, is further amended to read:

15 **12. Foreign limited liability companies.** For filing of an
16 application for authority to do business as a foreign limited
17 liability company under section 712, a certificate of amendment
18 under section 715, except as provided in subsection 13 or a
19 certificate of cancellation under section 717, a fee of \$250.
20 For filing a certificate of amendment under section 715 to change
21 the address of the registered or principal office ~~in--the~~
22 ~~jurisdiction-of-its-organization~~, a fee in the amount of \$30;

23 **Sec. 59. 31 MRSA §751, sub-§§21 and 22**, as enacted by PL 1993,
24 c. 718, Pt. A, §1, are amended to read:

25 **21. Information request.** For written response to a request
26 for information on file, a fee of \$5; and

27 **22. Service of process on Secretary of State as agent.** For
28 accepting service of process under section 609, 610, 722 or 723,
29 a fee of \$20; and

30 **Sec. 60. 31 MRSA §751, sub-§23** is enacted to read:

31 **23. Report of name search.** For report of name search as
32 provided by section 603, subsection 4, \$10.

33 **Sec. 61. 31 MRSA §757, sub-§1, ¶B**, as enacted by PL 1993, c.
34 718, Pt. A, §1, is amended to read:

35 **B.** The name of its registered agent and the address of its
36 registered office in this State, including the street or
37 rural route number, town or city and state, and, in the case
38 of a foreign limited liability company, the address of its
39 registered or principal office ~~in--its--jurisdiction--of~~
40 ~~organization~~;

41 **Sec. 62. 31 MRSA §803, sub-§6** is enacted to read:

2 **6. Name search service.** To assist the public in
4 determining the availability of a limited liability partnership
6 name, the Secretary of State may make available to the public a
8 name search service. Name searches conducted by the Secretary of
State are preliminary in nature and may not reserve or register a
limited liability partnership name or ensure the availability of
a limited liability partnership name.

10 **Sec. 63. 31 MRSA §806, sub-§2, ¶¶D and E,** as enacted by PL
12 1995, c. 633, Pt. B, §1, are amended to read:

14 D. A statement that it is actually engaged--in doing
16 business activities;

18 E. A brief statement of the activities business in which it
20 is engaged; and

22 **Sec. 64. 31 MRSA §826, sub-§1, ¶A,** as enacted by PL 1995, c.
24 633, Pt. B, §1, is amended to read:

26 A. In the case of the initial certificate of limited
28 liability partnership, by one or more partners who are
30 authorized and the registered agent as required by section
32 807, subsection 2;

34 **Sec. 65. 31 MRSA §826, sub-§3,** as enacted by PL 1995, c. 633,
36 Pt. B, §1, is repealed and the following enacted in its place:

38 **3. Unsworn falsification.** The execution of a certificate
40 containing false statements constitutes unsworn falsification
42 under Title 17-A, section 453.

44 **Sec. 66. 31 MRSA §852, sub-§2,** as enacted by PL 1995, c. 633,
46 Pt. B, §1, is amended to read:

48 **2. Execution.** The foreign limited liability partnership
50 shall submit to the Secretary of State an application for
authority to do business, executed by a person with authority to
do so under the laws of the state or other jurisdiction of its
formation and by the registered agent as required by section 854,
subsection 2-A on a form prescribed by or furnished by the
Secretary of State.

Sec. 67. 31 MRSA §852, sub-§3, ¶I, as enacted by PL 1995, c.
633, Pt. B, §1, is amended to read:

I. The address of the registered or principal office of the
limited liability partnership in the jurisdiction of its
organization or the principal office wherever located.

2 **Sec. 68. 31 MRSA §854, sub-§2-A** is enacted to read:

4 **2-A. Acceptance of designation of agent.** Unless the
6 registered agent signed the document making the appointment, the
8 appointment of a registered agent or a successor registered agent
on whom process may be served is not effective until the agent
delivers a written statement to the Secretary of State accepting
the appointment.

10 **Sec. 69. 31 MRSA §859, sub-§1, ¶F**, as enacted by PL 1995, c.
12 633, Pt. B, §1, is amended to read:

14 F. A foreign partnership that has its status as a limited
16 liability partnership in this State revoked may be
requalified--by--applying--under--this--subchapter reinstated
pursuant to section 874.

18 **Sec. 70. 31 MRSA §860, sub-§2**, as enacted by PL 1995, c. 633,
20 Pt. B, §1, is repealed and the following enacted in its place:

22 **2. Unsworn falsification.** Section 826, subsection 3,
24 governing unsworn falsification, and section 829, on liability
26 for materially inaccurate statements, apply to foreign limited
liability partnerships as if the application for authority to do
business were a certificate of limited liability partnership of a
registered limited liability partnership.

28 **Sec. 71. 31 MRSA §871, sub-§§1, 10, 19 and 20**, as enacted by PL
30 1995, c. 633, Pt. B, §1, are amended to read:

32 **1. Reservation.** For filing an application for reservation
34 of name,--an--application--for--renewal--of--reservation or a notice of
transfer or cancellation of reservation pursuant to section 804,
a fee of \$20 for each limited liability partnership affected;

36 **10. Foreign limited liability partnerships.** For filing an
38 application for authority to do business as a foreign limited
40 liability partnership under section 852, a certificate of
42 amendment under section 855, except as provided in subsection 12,
44 or a certificate of cancellation under section 857, a fee of
\$250. For filing a certificate of amendment under section 855 to
change the address of the registered or principal office in--the
jurisdiction--of--its--organization or to change the contact
partner, the fee is \$30;

46 **19. Information request.** For written response to a request
48 for information on file, a fee of \$5; and

50 **20. Service of process on Secretary of State as agent.** For
accepting service of process under section 809, 810, 861 or 862,
a fee of \$20+ ; and

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

Sec. 72. 31 MRSA §871, sub-§21 is enacted to read:

21. Report of name search. For report of name search as provided by section 803, subsection 6, \$10.

Sec. 73. 31 MRSA §873, sub-§1, ¶B, as enacted by PL 1995, c. 633, Pt. B, §1, is amended to read:

B. The name of its registered agent and the address of its registered office in this State, including the street or rural route number, town or city and state, and, in the case of a foreign limited liability partnership, the address of its registered or principal office ~~in its jurisdiction of organization;~~

SUMMARY

This bill makes several technical changes and clarifies the laws governing business entities as follows.

1. It allows the owner of a mark to sign an application for registration of that mark without appearing before a Notary Public.

2. It allows the Secretary of State to provide an attested copy of an original mark application, amendment or assignment, instead of a certificate of registration, as evidence that the application has been filed and deletes other references to the certificate of registration. The other corporate laws presently have this provision.

3. It allows foreign corporations to provide the Secretary of State with an address of the registered or principal office wherever located, rather than in the jurisdiction of incorporation.

4. It alters the language to prevent the corporation from changing the address of the registered office without changing the registered agent.

5. It allows a fee of \$20 to be assessed for an assumed name for a foreign corporation whose true corporate name is not available instead of the customary \$105 charged for other assumed names.

6. It alters the language to make the resignation of a registered agent effective on the date of filing of the notice by the Secretary of State.

2 7. It clarifies who may sign the certificate for a
corporate incorporator.

4 8. It clarifies that the additional fee for a merger or
consolidation is charged to the surviving entity.

6 9. It provides for a name search service for limited
8 partnerships, limited liability companies and limited liability
10 partnerships and sets the fee for such searches. The business
and nonprofit corporation laws presently have the same provision
and fees.

12 10. It alters language to comply with a previous change in
14 the law regarding the requirements of a limited partnership name.

16 11. It deletes the wording that indicates that reserved
names may be renewed.

18 12. It amends the limited partnership law to allow the
20 Secretary of State to make the final determination regarding the
availability of a name and to refuse to file a name under certain
22 circumstances. These provisions already exist for other entity
types.

24 13. It alters language to provide for amendments by a
26 majority in interest of the members of a limited liability
company.

28 14. It clarifies that the registered agent of a limited
30 liability company or a limited liability partnership must sign
the articles of organization or the certificate of limited
32 liability partnership, accepting the appointment as registered
agent.

34 15. It clarifies that a foreign limited liability
36 partnership may be reinstated instead of requalified.

38 16. It provides a filing fee of \$30 to change the contact
40 partner of a foreign limited liability partnership instead of the
customary \$250 charged for other amendments.

42 17. It clarifies the penalty for false swearing on
documents filed with the Secretary of State.

44 18. It provides for the written consent of the appointee as
46 the clerk or registered agent of a corporate entity.

48 19. It makes other technical amendments and changes to
correct misspellings, terms and cross-references.