

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

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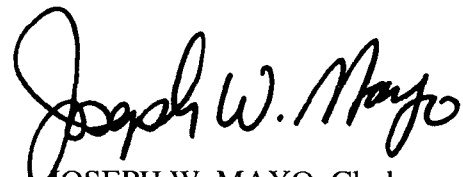
H.P. 1639

House of Representatives, December 17, 1999

**An Act to Improve Business Entity Filings and Authorize Mergers,
Consolidations and Conversions of Various Business Entities.**

Submitted by the Secretary of State pursuant to Joint Rule 204.

Received by the Clerk of the House on December 15, 1999. Referred to the Committee on
Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.


JOSEPH W. MAYO, Clerk

Presented by Representative THOMPSON of Naples.

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

4 Sec. 1. 13-A MRSA §§911 to 913 are enacted to read:

6 **§911. Merger or consolidation of corporation with other
business entities**

8 **1. Definitions.** "Other business entity" or "other business
10 entities" for purposes of this section means domestic or foreign
12 limited liability companies, limited partnerships and general
partnerships authorized by applicable statutes to merge or
consolidate with a corporation.

14 **2. Merger or consolidation with other business entities.**
16 Pursuant to a plan of merger or consolidation that complies with
and is approved in accordance with this section, any one or more
18 corporations may merge or consolidate with or into one or more
other business entities, with the corporation or the other
20 business entity as the agreement provides being the surviving or
resulting corporation or other business entity.

22 **3. Agreement or plan of merger.** A corporation and other
24 business entity that is merging or consolidating pursuant to
subsection 2 shall enter into a written agreement or plan of
26 merger or consolidation. The agreement or plan must state:

28 A. The names and current jurisdictions of the participating
corporations or other business entities and the name and
30 jurisdiction of the surviving or resulting corporation or
other business entity into which they propose to merge or
consolidate;

32 B. The terms and conditions of the merger or consolidation;

34 C. The mode of carrying the merger or consolidation into
36 effect;

38 D. The manner of converting the shares of stock of each
corporation and the limited liability company or partnership
40 interests of each other business entity into shares, limited
liability company or partnership interests, or other
42 ownership interests of the entity surviving or resulting
from the merger or consolidation. If any shares of any
44 corporation or any limited liability company or partnership
interests of any other business entity are not to be
46 converted solely into shares, limited liability company or
partnership interests or other securities of the entity
48 surviving or resulting from the merger or consolidation, the
agreement or plan must state the cash, property, rights or
50 securities of any corporation or other business entity that

2 the holder of the shares or limited liability company or
3 partnership interests are to receive in connection with the
4 merger or consolidation; and

5 E. Any other details or provisions as are determined
6 desirable, including, but not limited to, a provision for
7 the payment of cash in lieu of the issuance of fractional
8 shares or interests of the surviving or resulting
9 corporation or other business entity.

10 Any of the terms of the agreement or plan of merger or
11 consolidation may be made dependent upon facts ascertainable
12 outside of the agreement or plan, as long as the manner in which
13 the facts operate upon the terms of the agreement or plan is
14 clearly and expressly set forth in the agreement or plan of
15 merger or consolidation.

16
17 4. Manner of approval. The written agreement or plan of
18 merger or consolidation required under subsection 3 must be
19 adopted by the board of directors of each corporation and
20 approved by the shareholders of each corporation to the extent
21 required and in the same manner as provided in section 902. In
22 the case of the other business entities, the agreement or plan
23 must be approved in accordance with the laws of the state under
24 which they are formed and, to the extent allowed under such laws,
25 in accordance with their governing documents.

26
27 5. Articles of merger or consolidation. After a written
28 agreement or plan of merger or consolidation is adopted and
29 approved in the manner required by subsection 4, the surviving or
30 resulting corporation or other business entity shall deliver to
31 the Secretary of State for filing articles of merger or
32 consolidation setting forth:

33
34 A. The name and current jurisdiction of each business
35 entity that is to merge or consolidate;

36
37 B. That an agreement or plan of merger or consolidation has
38 been approved, adopted and executed by each business entity
39 that is a party to the merger or consolidation;

40
41 C. The name of the surviving or resulting corporation or
42 other business entity;

43
44 D. If a corporation is the surviving entity of the merger
45 or consolidation, the written agreement or plan of merger or
46 consolidation;

2 E. If shareholder approval of any corporation party to the
3 written agreement or plan of merger or consolidation was not
4 required, a statement to that effect;

5 F. If approval of the shareholders of one or more
6 corporations party to the merger or consolidation was
7 required;

8
9
10 (1) The designation, number of outstanding shares and
11 number of votes entitled to be cast by each voting
12 group entitled to vote separately on the written
13 agreement or plan of merger or consolidation as to each
14 corporation; and

15
16 (2) Either the total number of votes cast for and
17 against the agreement or plan by each voting group
18 entitled to vote separately on the agreement or plan or
19 the total number of undisputed votes cast for the
20 agreement or plan separately by each voting group and a
21 statement that the number cast for the written
22 agreement or plan by each voting group was sufficient
23 for approval by that voting group;

24 G. In the case of a merger, a statement of any changes in
25 or a restatement of the organizing documents of the
26 surviving business entity; a statement that the organizing
27 documents of the surviving business entity remain unchanged;
28 or in the case of a consolidation, with respect to the
29 resulting business entity, all of the statements required to
30 be set forth in the organizing documents for that type of
31 business entity;

32
33 H. If the surviving entity is not a corporation, that the
34 executed agreement or plan of merger or consolidation is on
35 file at the principal place of business of the surviving
36 business entity and the address of the entity and that a
37 copy of the agreement or plan of merger or consolidation
38 must be furnished by the surviving entity, on request and
39 without cost, to any shareholder of any constituent
40 corporation, any member of any constituent limited liability
41 company or any partner of a constituent partnership; and

42
43 I. The date when the merger or consolidation is to take
44 effect, not to exceed 60 days subsequent to the filing date
45 of the articles of merger or consolidation.

46
47 6. Effective date. A merger or consolidation under this
48 section takes effect upon the later of the effective date of the
49 filing of the articles of merger or consolidation or the date set
50 forth in the articles of merger or consolidation.

2 7. General effect of merger or consolidation. A merger or consolidation has the following effects.

4 A. The corporations or other business entities that are
6 parties to the merger or consolidation agreement become a
8 single entity, which in the case of a merger is the
10 corporation or other business entity designated in the plan
 of merger as the survivor and in the case of a consolidation
 is the resulting corporation or other business entity
 provided for in the plan of consolidation.

12 B. The separate existence of each party to the merger or
14 consolidation agreement, except for the surviving or
 resulting corporation or other business entity, ceases.

16 C. The surviving or resulting corporation or other business
18 entity possesses all the rights, privileges, immunities,
20 powers and franchises of each constituent corporation or
22 other business entity and is subject to all the
 restrictions, disabilities and duties of each of the parties
 to the extent that those rights, privileges, immunities,
 powers, franchises, restrictions, disabilities and duties
 are applicable.

24 D. All property, real, personal and mixed; all debts due,
26 including promises to make capital contributions and
28 subscriptions for shares or interests; all other choses in
30 action; and all other interests of or belonging to or due to
 each of the constituent entities vest in the surviving or
 resulting corporation or other business entity without
 further act or deed.

32 E. The title to all real estate and any interests in real
34 estate vested in a constituent corporation or other business
36 entity do not revert and are not in any way impaired by
 reason of the merger or consolidation.

38 F. The surviving or resulting corporation or other business
40 entity is liable for all liabilities and obligations of each
42 of the constituent corporations or other business entities
44 so merged or consolidated and any claim existing or action
46 or proceeding pending by or against a constituent
 corporation or other business entity may be prosecuted as if
 the merger or consolidation had not taken place or the
 surviving or resulting corporation or other business entity
 may be substituted in the action.

48 G. Neither the rights of creditors nor any liens on the
50 property of a constituent corporation or other business
 entity are impaired by the merger or consolidation.

2 H. The shares or other interests in a corporation or the
4 shares or other interests of another business entity that
6 are to be converted or exchanged into interests, cash,
8 obligations or other property under the terms of the merger
10 or consolidation agreement are so converted and the former
 holders of the membership or other interest are entitled
 only to the rights provided in the merger or consolidation
 agreement or the rights otherwise provided by law.

12 8. Appointment of Secretary of State; pay shareholders.
14 When the merger or consolidation takes effect, a surviving or
 resulting foreign corporation or other business entity of a
 merger or consolidation is considered:

16 A. To appoint the Secretary of State as its agent for
18 service of process in a proceeding to enforce any obligation
20 or rights of dissenting shareholders of each domestic
 corporation to the merger or consolidation; and

22 B. To agree that it will promptly pay to the dissenting
24 shareholders of each corporation party to the merger or
 consolidation the amount, if any, to which they are entitled
 under section 909.

26 §912. Conversion of business entity

28 1. Definitions. For purposes of this section, "business
30 entity" or "business entities" means domestic or foreign
32 corporations, limited liability companies, general partnerships
 and limited partnerships.

34 2. Authority. A business entity may convert to another
36 type of business entity by complying with the requirements of
 this section.

38 3. Manner of approval. Each business entity that proposes
40 to convert to another type of business entity shall approve a
42 plan of conversion in the manner and by the vote required by the
 laws applicable to that business entity and, to the extent
 allowed under such laws, its governing documents.

44 4. Plan of conversion. A plan of conversion must set forth
46 the terms and conditions of the conversion of the shares of stock
48 of a corporation, the partnership interests of a general
 partnership or a limited partnership or other equity interests in
 the converting business entity, into interests in the resulting
 business entity, cash or other consideration to be paid or
 delivered as a result of the conversion.

50

2 5. Certificate of conversion. A business entity converting
3 to another type of business entity shall file with the Secretary
4 of State:

6 A. A certificate of conversion; and

8 B. Articles of organization, articles of incorporation,
9 certificate of limited partnership or other formation
10 documents required by law for the formation of the type of
11 business entity resulting from the conversion.

12 6. Content of certificate. The certificate of conversion
13 must state:

14 A. The date on which the business entity was first created,
15 formed, incorporated or otherwise came into being and its
16 jurisdiction immediately prior to its conversion to another
17 type of business entity;

18 B. The name of the business entity immediately prior to the
19 filing of the certificate of conversion;

20 C. The name of the resulting business entity as set forth
21 in its articles of organization or other formation documents
22 filed for other business entities in accordance with
23 subsection 5;

24 D. If the converting business entity is a corporation:

25 (1) The designation, number of outstanding shares and
26 number of votes entitled to be cast by each voting
27 group entitled to vote separately on the plan; and

28 (2) Either the total number of votes cast for and
29 against the plan by each voting group entitled to vote
30 separately on the plan or the total number of votes
31 cast for the plan separately by each voting group and a
32 statement that the number cast for the plan by each
33 voting group is sufficient for approval by that voting
34 group;

35 E. That the plan of conversion is on file at the principal
36 place of business of the resulting business entity and the
37 address of the entity and that a copy of the plan of
38 conversion will be furnished by the resulting business
39 entity on request and without cost to any interest holder of
40 the business entity; and

41 F. The date when the conversion is to take effect, not to
42 exceed 60 days after the filing date of the conversion.

2 7. Effective date. A conversion of a business entity to
another type of business entity takes effect upon the later of
4 the effective date and time of the filing of the formation
documents pursuant to subsection 5 or upon the date specified in
6 the formation documents.

8 8. Effects of conversion. Upon the effective date of the
conversion, the resulting business entity is subject to all of
10 the provisions applicable to that business entity. A conversion
of a business entity to another type of business entity has the
12 following effects.

14 A. The resulting business entity possesses all the rights,
privileges, immunities and powers of the converting business
16 entity and is subject to all the restrictions, disabilities
and duties of the converting business entity to the extent
18 that the rights, privileges, immunities, powers, franchises,
restrictions, disabilities and duties are applicable to the
20 resulting business entity.

22 B. All property, real, personal and mixed; all debts due on
whatever account; all other choses in action; and all and
24 every other interest of or belonging to or due to the
converting business entity vest in the resulting business
26 entity without further act or deed.

28 C. The title to all real estate and other interests in real
estate vested in the converting business entity may not
30 revert or be in any way impaired by reason of the conversion.

32 D. The resulting business entity is liable for all
liabilities and obligations of the converting business
34 entity and any claim existing or action or proceeding
pending by or against the business entity may be prosecuted
36 as if the conversion had not taken place, or the resulting
business entity may be substituted in the action.

38 E. Neither the rights of creditors nor any liens on the
property of the converting business entity are impaired by
40 the conversion.

42 F. The interests or shares of the converting business
entity that are to be converted or exchanged into interests
44 of the resulting business entity under the terms of the plan
of conversion are so converted and the former holders are
46 entitled only to the interests in the resulting business
entity as provided in the plan of conversion or the rights
48 otherwise provided by law.

50

2 G. The conversion does not affect any obligations or
3 liability of the converting business entity incurred before
4 its conversion to the resulting business entity.

5 9. Continuation of business. Unless otherwise agreed or as
6 required under applicable law, the converting business entity may
7 not be required to conclude its affairs or pay its liabilities
8 and distribute its assets, and the conversion does not constitute
9 a dissolution of the converting business entity.

10 **§913. Approval of conversion of corporation**

11 A corporation may convert to another business entity upon
12 the authorization of the conversion in accordance with this
13 section and fulfillment of the requirements of section 912 and
14 other applicable statutes governing conversion to another
15 business entity. The board of directors of the corporation shall
16 adopt a written plan of conversion and shall submit the plan of
17 conversion for approval of the shareholders in the manner
18 provided for shareholder approval of a plan of merger under
19 section 902 for a merger requiring shareholder approval. After a
20 plan of conversion is authorized and at any time before the
21 certificate of conversion is filed with the Secretary of State,
22 the planned conversion may be abandoned, subject to any
23 contractual rights, without further shareholder action in
24 accordance with the procedures set forth in the plan of
25 conversion or, if none is set forth, in the manner determined by
26 the board of directors.

27 **Sec. 2. 13-A MRS §1401, sub-§15,** as amended by PL 1989, c.
28 501, Pt. L, §27, is further amended to read:

29 15. Articles of amendment, as provided by section 803, 805
30 or 810, ~~§35~~ §60; and if the amendment increases the total
31 authorized capital stock, the additional amount specified in
32 section 1403, subsection 3, but not less than an additional \$35;
33 and if it changes the corporation's purposes, a further
34 additional amount of \$20;

35 **Sec. 3. 13-A MRS §1401, sub-§§26, 27 and 29,** as amended by PL
36 1989, c. 501, Pt. L, §27, are further amended to read:

37 26. Articles of merger of a foreign corporation, as
38 provided by section 1206, ~~§35~~ §60;

39 27. An amendment to a foreign corporation's application for
40 authority to do business in this State as provided by section
41 1207, ~~§35~~ §60;

29. Statement of a foreign corporation's termination of
existence, as provided by section 1209, ~~\$35~~ \$60;

Sec. 4. 13-A MRSA §1401, sub-§37, as repealed and replaced by
PL 1993, c. 316, §26 and c. 349, §34, is amended to read:

37. Preclearance of any document for filing, \$100; and

Sec. 5. 13-A MRSA §1401, sub-§38, as enacted by PL 1991, c.
780, Pt. U, §10, is amended to read:

38. Written response to a request for information on file,
~~\$5.~~

Sec. 6. 13-A MRSA §1401, sub-§§39 and 40 are enacted to read:

39. Articles of merger or consolidation of a business
corporation with another type of business entity, as provided by
section 911, \$150; and

40. Certificate of conversion of a business corporation to
another type of business entity, as provided by section 912, \$125.

Sec. 7. 31 MRSA §403, sub-§1, ¶A, as repealed and replaced by
PL 1995, c. 633, Pt. C, §11, is amended to read:

A. Must contain the words "Limited Partnership," or the
abbreviation "L.P.," or the designation "LP," unless filing
an assumed name under section 405 or a registration of name
under section 406. 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;

Sec. 8. 31 MRSA §408, sub-§1, ¶A, as amended by PL 1991, c.
780, Pt. U, §25, is further amended to read:

A. Shall suspend a domestic limited partnership when:

(1) The limited partnership fails to deliver its
annual report for filing within the time specified by
this chapter or fails to pay any fees or penalties as
prescribed by this chapter when they become due and
payable;

(2) The limited partnership fails to appoint or name a
registered agent in this State;

2 (3) The limited partnership, after change of its
3 registered office or registered agent, fails to file
4 with the Secretary of State a notification of such a
change; or

6 (4) A misrepresentation has been made of a material
7 fact in any application, report, affidavit or other
8 document required by this chapter ~~or~~.

10 **Sec. 9. 31 MRSA §408, sub-§1, ¶B,** as enacted by PL 1991, c.
11 552, §2 and affected by §4, is repealed.

12 **Sec. 10. 31 MRSA §408, sub-§3,** as enacted by PL 1991, c. 552,
13 §2 and affected by §4, is amended to read:

16 **3. Reinstatement.** A domestic limited partnership that has
17 been suspended under this section may be reinstated by filing
18 proper notification of change of registered agent or registered
19 office, or both, with the Secretary of State, correcting any
20 misrepresentation ~~or providing a list of limited partners~~ and
21 paying all delinquent fees and the penalty as set forth in
22 section 526, subsection 6.

24 **Sec. 11. 31 MRSA §§417 to 419** are enacted to read:

26 **§417. Merger or consolidation**

28 **1. Definitions.** "Other business entity" or "other business
29 entities" for purposes of this section means domestic or foreign
30 corporations, limited liability companies and general
31 partnerships authorized by applicable statutes to merge or
32 consolidate with a limited partnership.

34 **2. Merger or consolidation.** Pursuant to a plan of merger
35 or consolidation that complies with and is approved in accordance
36 with this section, any one or more limited partnerships may merge
37 or consolidate with or into one or more limited partnerships or
38 other business entities, with the limited partnership or the
39 other business entity as the agreement provides being the
40 surviving or resulting limited partnership or other business
41 entity.

42 **3. Agreement or plan of merger.** A limited partnership and
43 other business entity that is merging or consolidating pursuant
44 to subsection 2 shall enter into a written agreement or plan of
45 merger or consolidation. The agreement or plan must state:

48 **A. The names and current jurisdictions of the participating**
49 **limited partnerships or other business entities and the name**
50 **and jurisdiction of the surviving or resulting limited**

2 partnership or other business entity into which they propose
3 to merge or consolidate;

4 B. The terms and conditions of the merger or consolidation;

6 C. The mode of carrying the merger or consolidation into
7 effect;

8
9 D. The manner of converting the partnership interests of
10 each limited partnership and the shares or the limited
11 liability company or partnership interests of each other
12 business entity into shares, limited liability company or
13 partnership interests, or other ownership interests of the
14 entity surviving or resulting from the merger or
15 consolidation. If any partnership interests of any limited
16 partnership or shares, limited liability company or
17 partnership interests of any other business entity are not
18 to be converted solely into shares, limited liability
19 company or partnership interests or other securities of the
20 entity surviving or resulting from the merger or
21 consolidation, the agreement or plan must state the cash,
22 property, rights or interests of any other business entity
23 that the holders of the shares or limited liability company
24 or partnership interests are to receive in connection with
25 the merger or consolidation; and

26
27 E. Any other details or provisions as are determined
28 desirable, including, but not limited to, a provision for
29 the payment of cash in lieu of the issuance of fractional
30 shares or interests of the surviving or resulting limited
31 partnership or other business entity.

32
33 Any of the terms of the agreement or plan of merger or
34 consolidation may be made dependent upon facts ascertainable
35 outside of the agreement or plan, as long as the manner in which
36 the facts operate upon the terms of the agreement or plan is
37 clearly and expressly set forth in the agreement or plan of
38 merger or consolidation.

39
40 4. Manner of approval. Unless otherwise provided in the
41 partnership agreement, a merger or consolidation must be approved
42 by each limited partnership that is a party to the merger or
43 consolidation by all general partners and by the limited partners
44 or, if there is more than one class or group of limited partners,
45 then by each class or group of limited partners, by limited
46 partners who own more than 50% of the then-current percentage or
47 other interest in the profits of the limited partnership owned by
48 all of the limited partners or by the limited partners in each
49 class or group. Each foreign limited partnership or other
50 business entity that is a party to a proposed merger or

2 consolidation shall approve the merger or consolidation in the
3 manner and by the vote required by the laws applicable to a
4 foreign limited partnership or other business entity and, to the
5 extent allowed under such laws, its governing documents. In
6 connection with a merger or consolidation under this section,
7 rights or interests in a limited partnership or other business
8 entity that is a constituent party to the merger or consolidation
9 may be exchanged for or converted into cash, property, rights or
10 interests in the surviving limited partnership or other business
11 entity or in lieu thereof may be exchanged for or converted into
12 cash, property, rights or interests in a limited partnership or
13 other business entity that is not the surviving or resulting
14 limited partnership or other business entity in the merger or
15 consolidation. Notwithstanding prior approval, an agreement or
16 plan of merger or consolidation may be terminated or amended
17 pursuant to a provision for the termination or amendment
18 contained in the agreement or plan at any time before the
19 articles of merger or consolidation are filed with the Secretary
20 of State.

21 5. Articles of merger or consolidation. After a plan or
22 agreement of merger or consolidation is adopted and approved in
23 the manner required by subsection 4, the surviving or resulting
24 limited partnership or other business entity shall deliver to the
25 Secretary of State for filing articles of merger or consolidation
26 setting forth:

27 A. The name and current jurisdiction of each of the limited
28 partnerships or other business entities that are to merge or
29 consolidate;

30 B. That an agreement or plan of merger or consolidation has
31 been approved, adopted and executed by each limited
32 partnership and other business entity, if any, that is a
33 party to the merger or consolidation;

34 C. The name of the surviving or resulting entity;

35 D. The date when the merger or consolidation is to take
36 effect, not to exceed 60 days, subsequent to the filing date
37 of the articles of merger or consolidation;

38 E. That the agreement of merger or consolidation is on file
39 at a place of business of the surviving or resulting limited
40 partnership or other business entity and must state the
41 address of the entity;

42 F. That a copy of the agreement of merger or consolidation
43 will be furnished by the surviving or resulting limited
44 partnership or other business entity on request and without
45 charge.

2 cost to a person holding an interest in a limited
3 partnership or other business entity that is to merge or
4 consolidate;

5 G. If the surviving or resulting limited partnership or
6 other business entity is not organized under the laws of
7 this State, a statement that the surviving or resulting
8 limited partnership or other business entity:

9 (1) Agrees that it may be served with process in this
10 State in a proceeding for enforcement of an obligation
11 of a party to the merger or consolidation that was
12 organized under the laws of this State, as well as for
13 enforcement of an obligation of the surviving or
14 resulting limited partnership or other business entity
15 arising from the merger or consolidation; and

16 (2) Appoints the Secretary of State as its agent for
17 service of process in any proceeding and the surviving
18 or resulting limited partnership or other business
19 entity shall specify the address to which a copy of the
20 process must be mailed by the Secretary of State;

21 H. If shareholder approval of any corporation party to the
22 merger or consolidation was not required, a statement to
23 that effect;

24 I. If approval of the shareholders of one or more
25 corporations party to the merger or consolidation was
26 required:

27 (1) The designation, number of outstanding shares and
28 number of votes entitled to be cast by each voting
29 group entitled to vote separately on the plan as to
30 each corporation; and

31 (2) Either the total number of votes cast for and
32 against the plan by each voting group entitled to vote
33 separately on the plan or the total number of
34 undisputed votes cast for the plan separately by each
35 voting group and a statement that the number cast for
36 the plan by each voting group was sufficient for
37 approval by that voting group;

38 J. In the case of a merger, a statement of any changes in
39 or a restatement of the organizing documents of the
40 surviving business entity; a statement that the organizing
41 documents of the surviving business entity remain unchanged;
42 or in the case of a consolidation, with respect to the
43 resulting business entity, all of the statements required to
44

2 be set forth in the organizing documents for that type of
3 business entity;

4 K. A statement to the effect that the merger or
5 consolidation was effected in compliance with the laws
6 applicable to mergers or consolidations of all parties to
7 the merger or consolidation; and

8
9 L. An agreement that the surviving or resulting business
10 entity shall continue to comply with all provisions of all
11 laws applicable to mergers or consolidations of all parties
12 to the merger or consolidation, including, without
13 limitation, provisions on payment of amounts to which
14 dissenting shareholders are entitled.

15 6. Effective date. A merger or consolidation under this
16 section takes effect upon the later of the effective date of the
17 filing of the articles of merger or consolidation or the date set
18 forth in the articles of merger or consolidation.

19
20 7. Appointment; Secretary of State. When the merger or
21 consolidation takes effect, a surviving or resulting foreign
22 limited partnership or other business entity of a merger or
23 consolidation is considered to appoint the Secretary of State as
24 its agent for service of process in a proceeding to enforce any
25 obligation or the rights of dissenting partners of each limited
26 partnership party to the merger or consolidation.

27
28 8. Cancellation; certificate of limited partnership.
29 Articles of merger or consolidation act as a certificate of
30 cancellation for a domestic limited partnership or other business
31 entity that is not the surviving or resulting business entity in
32 the merger or consolidation.

33
34 9. Amendment to partnership agreement. Notwithstanding
35 anything to the contrary contained in a partnership agreement, a
36 partnership agreement containing a specific reference to this
37 subsection may provide that an agreement or plan of merger or
38 consolidation approved in accordance with subsection 4 may effect
39 any amendment to the partnership agreement or effect the adoption
40 of a new partnership agreement for a limited partnership if it is
41 the surviving or resulting business entity in the merger or
42 consolidation. Any amendment to a partnership agreement or
43 adoption of a new partnership agreement made pursuant to this
44 subsection is effective at the effective date and time of the
45 merger or consolidation. The provisions of this subsection may
46 not be construed to limit the accomplishment of a merger or
47 consolidation by any other means provided for in a partnership
48 agreement or other agreement or as otherwise permitted by law,
49 including that the limited partnership agreement of any
50

2 constituent limited partnership to the merger or consolidation,
3 including a limited partnership formed for the purpose of
4 consummating the merger, is the partnership agreement of the
5 surviving or resulting limited partnership.

6 10. General effect of merger or consolidation. A merger or
7 consolidation has the following effects.

8
9
10 A. The limited partnerships or other business entities that
11 are parties to the merger or consolidation agreement become
12 a single entity, which in the case of a merger is the
13 limited partnership or other business entity designated in
14 the plan of merger as the survivor and in the case of a
15 consolidation is the resulting limited partnership or other
16 business entity provided for in the plan of consolidation.

17 B. The separate existence of each party to the merger or
18 consolidation agreement, except for the surviving or
19 resulting limited partnership or other business entity
20 ceases.

21 C. The surviving or resulting limited partnership or other
22 business entity possesses all the rights, privileges,
23 immunities, powers and franchises of each constituent
24 limited partnership or other business entity and is subject
25 to all the restrictions, disabilities and duties of each of
26 the parties to the extent that those rights, privileges,
27 immunities, powers, franchises, restrictions, disabilities
28 and duties are applicable.

29
30 D. All property, real, personal and mixed; all debts due,
31 including promises to make capital contributions and
32 subscriptions for shares or interests; all other choses in
33 action; and all other interests of or belonging to or due to
34 each of the constituent entities vest in the surviving or
35 resulting limited partnership or other business entity
36 without further act or deed.

37
38 E. The title to all real estate and any interests in real
39 estate vested in a constituent limited partnership or other
40 business entity do not revert and are not in any way
41 impaired by reason of the merger or consolidation.

42
43 F. The surviving or resulting limited partnership or other
44 business entity is liable for all liabilities and
45 obligations of each of the constituent limited partnerships
46 or other business entities so merged or consolidated and any
47 claim existing or action or proceeding pending by or against
48 a constituent limited partnership or other business entity
49 may be prosecuted as if the merger or consolidation had not
50 taken place or the surviving or resulting limited

2 partnership or other business entity may be substituted in
3 the action.

4 G. Neither the rights of creditors nor any liens on the
5 property of a constituent limited partnership or other
6 business entity are impaired by the merger or consolidation.

8 H. The partnership or other interests in a limited
9 partnership or the shares or other interests of another
10 business entity that are to be converted or exchanged into
11 interests, cash, obligations or other property under the
12 terms of the merger or consolidation agreement are so
13 converted and the former holders of the partnership or other
14 interest are entitled only to the rights provided in the
15 merger or consolidation agreement or the rights otherwise
16 provided by law.

18 I. Except as provided by agreement with a person to whom a
19 general partner of a limited partnership is obligated, a
20 merger or consolidation of a limited partnership that has
21 become effective may not affect any obligation or liability
22 existing at the time of the merger or consolidation of a
23 general partner of a limited partnership that is merging or
24 consolidating.

26 J. If a limited partnership is a constituent party to a
27 merger or consolidation that is effective, but the limited
28 partnership is not the surviving or resulting entity of the
29 merger or consolidation, then a judgment creditor of a
30 general partner of the limited partnership may not levy
31 execution against the assets of the general partner to
32 satisfy a judgment based on a claim against the surviving or
33 resulting business entity of the merger or consolidation
34 unless:

36 (1) A judgment based on the same claim has been
37 obtained against the surviving or resulting business
38 entity of the merger or consolidation and writ of
39 execution on the judgment has been returned unsatisfied
40 in whole or in part;

42 (2) The surviving or resulting business entity of the
43 merger or consolidation is a debtor in bankruptcy;

44 (3) The general partner has agreed that the creditor
45 need not exhaust the assets of the limited partnership
46 that was not the surviving or resulting business entity
47 of the merger or consolidation;
48

2 (4) The general partner has agreed that the creditor
3 need not exhaust the assets of the surviving or
4 resulting business entity of the merger or
5 consolidation;

6 (5) A court grants permission to the judgment creditor
7 to levy execution against the assets of the general
8 partner based on a finding that the assets of the
9 surviving or resulting business entity of the merger or
10 consolidation that are subject to execution are clearly
11 insufficient to satisfy the judgment, that exhaustion
12 of the assets of the surviving or resulting business
13 entity of the merger or consolidation is excessively
14 burdensome or that the grant of permission is an
15 appropriate exercise of the court's equitable powers; or

16 (6) Liability is imposed on the general partner by law
17 or contract independent of the existence of the
18 surviving or resulting business entity of the merger or
19 consolidation.

20
21 **§418. Conversion of business entity**

22 1. Definitions. For purposes of this section, "business
23 entity" or "business entities" means domestic or foreign
24 corporations, limited liability companies, general partnerships
25 and limited partnerships.

26 2. Authority. A business entity may convert to another
27 type of business entity by complying with the requirements of
28 Title 13-A, section 912.

29 **§419. Approval of conversion of limited partnership**

30 A limited partnership may convert to another business
31 entity, as specified in section 418, other than a limited
32 partnership, upon the authorization of the conversion in
33 accordance with this section and to the extent authorized by and
34 in accordance with applicable statutes to convert to another
35 business entity. If the partnership agreement specifies the
36 manner of authorizing a conversion of the limited partnership,
37 the conversion is authorized as specified in the provisions of
38 the partnership agreement, as long as the provisions do not
39 explicitly exclude conversions. If the partnership agreement
40 does not specify the manner of authorizing a conversion of the
41 limited partnership and does not prohibit a conversion, the
42 conversion is authorized in the same manner as is specified in
43 the partnership agreement for authorizing a merger or
44 consolidation that involves the limited partnership as a
45 constituent party to the merger or consolidation. If the
46 conversion is authorized in the same manner as is specified in
47 the partnership agreement for authorizing a merger or
48 consolidation that involves the limited partnership as a
49 constituent party to the merger or consolidation, the
50 conversion is authorized in the same manner as is specified in

2 partnership agreement does not specify the manner of converting a
3 limited partnership or the merger or consolidation of the limited
4 partnership, the conversion is authorized in the same manner as
5 is specified in section 417 authorizing a merger or consolidation
6 that involves the limited partnership that is a constituent party
7 to the merger or consolidation.

8 **Sec. 12. 31 MRSA §437**, as enacted by PL 1991, c. 552, §2 and
9 affected by §4, is repealed.

10 **Sec. 13. 31 MRSA §526, sub-§7**, as amended by PL 1995, c. 458,
11 §16, is further amended to read:

12 **7. Certificate of limited partnership, amendment or**
13 **cancellation.** For filing of a certificate of limited partnership
14 under section 421, a fee in the amount of \$105, and for a
15 certificate of amendment under section 422, except as provided in
16 subsection 5, or a certificate of cancellation under section 423,
17 a fee in the amount of \$250 ~~\$60~~. For filing of a certificate of
18 amendment under section 422, subsection 7, a fee in the amount of
19 \$20;

20 **Sec. 14. 31 MRSA §526, sub-§8**, as amended by PL 1997, c. 376,
21 §43, is further amended to read:

22 **8. Foreign limited partnerships.** For filing of an
23 application for authority to do business as a foreign limited
24 partnership under section 492, a fee in the amount of \$180, and
25 for a certificate of amendment under section 495, except as
26 provided in subsection 9, or a certificate of cancellation under
27 section 496, a fee in the amount of \$250 ~~\$60~~. For filing a
28 certificate of amendment under section 495 to change the address
29 of a general partner or to change the address of the registered
30 or principal office, a fee in the amount of \$30;

31 **Sec. 15. 31 MRSA §526, sub-§17**, as amended by PL 1997, c. 376,
32 §45, is further amended to read:

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

36 **Sec. 16. 31 MRSA §526, sub-§18**, as enacted by PL 1997, c. 376,
37 §46, is amended to read:

38 **18. Report of name search.** For report of name search as
39 provided by section 403, subsection 6, \$10+;

40 **Sec. 17. 31 MRSA §526, sub-§§19 and 20** are enacted to read:

2 19. Articles of merger or consolidation. Articles of
merger or consolidation of a limited partnership with another
4 type of business entity as provided by section 417, a fee in the
amount of \$150; and

6 20. Certificate of conversion. Certificate of conversion
of a limited partnership to another type of business entity as
8 provided by section 418, a fee in the amount \$125.

10 **Sec. 18. 31 MRSA §603, sub-§1, ¶A,** as corrected by RR 1995, c.
2, §75, is amended to read:

12 A. Must contain the words "Limited Liability Company," or
14 the abbreviation "L.L.C.," or the designation "LLC," unless
filing an assumed name under section 605 or a registration
16 of name under section 606. If the words "Limited Liability
Company" or "Limited Liability Company, Chartered" or
18 "Limited Liability Company, Professional Association" or
"Limited Liability Company, P.A." or any of the designations
20 used in the paragraph without commas are used, a limited
liability company may also use the abbreviation "L.L.C." or
22 the designation "LLC" without filing an assumed name under
section 605; and

24 **Sec. 19. 31 MRSA §608, sub-§1, ¶A,** as enacted by PL 1993, c.
26 718, Pt. A, §1, is amended to read:

28 A. Shall suspend a domestic limited liability company when:

30 (1) The limited liability company fails to deliver its
annual report for filing within the time specified by
32 this chapter or fails to pay fees or penalties as
prescribed by this chapter when they become due and
34 payable;

36 (2) The limited liability company fails to appoint or
name a registered agent in this State;

38 (3) The limited liability company, after change of its
40 registered office or registered agent, fails to file
with the Secretary of State a notification of such a
42 change; or

44 (4) A misrepresentation is made of a material fact in
an application, report, affidavit or other document
46 required by this chapter~~+-or.~~

48 **Sec. 20. 31 MRSA §608, sub-§1, ¶B,** as enacted by PL 1993, c.
718, Pt. A, §1, is repealed.

50

2 **Sec. 21. 31 MRSA §608, sub-§3, ¶¶B and C**, as enacted by PL
1993, c. 718, Pt. A, §1, are amended to read:

4 B. Filing proper notification of change of registered agent
or registered office, or both; or

6 C. Correcting a misrepresentation~~+or~~.

8 **Sec. 22. 31 MRSA §608, sub-§3, ¶D**, as enacted by PL 1993, c.
10 718, Pt. A, §1, is repealed.

12 **Sec. 23. 31 MRSA §647**, as enacted by PL 1993, c. 718, Pt. A,
§1, is repealed.

14 **Sec. 24. 31 MRSA §695** is enacted to read:

16 **§695. Rights of former member**

18 **1. No payment for interest.** Unless the operating agreement
20 or articles of organization provide otherwise, if the limited
liability company is not dissolved after a person ceases to be a
22 member under section 692, the person has no right to any payment
from the limited liability company for that person's interest in
24 the limited liability company.

26 **2. Payment for interest.** Unless the operating agreement or
articles of organization provide otherwise, if the limited
28 liability company is not dissolved after a person ceases to be a
member under section 692, and if the limited liability company
30 elects to pay to that person or that person's successor in
interest for that person's interest in the limited liability
32 company in complete liquidation of the interest.

34 A. The price must be the fair value of that person's
interest in the limited liability company as of the date the
36 person ceased to be a member, based upon the person's right
to share in distributions from the limited liability company.

38 B. The amount must be paid within a reasonable time after
40 the person has ceased to be a member.

42 **Sec. 25. 31 MRSA §741**, as enacted by PL 1993, c. 718, Pt. A,
§1, is repealed.

44 **Sec. 26. 31 MRSA §741-A** is enacted to read:

46 **§741-A. Merger or consolidation**

48 **1. Definitions.** "Other business entity" or "other business
50 entities" for purposes of this section means any domestic or

2 foreign corporations, limited partnerships and general
3 partnerships authorized by applicable statutes to merge or
4 consolidate with a limited liability company.

6 2. Merger or consolidation. Pursuant to a plan of merger
7 or consolidation that complies with and is approved in accordance
8 with this section, any one or more limited liability companies
9 may merge or consolidate with or into one or more limited
10 liability companies or other business entities, with the limited
11 liability company or other business entity as the agreement
12 provides being the surviving or resulting limited liability
13 company or other business entity.

14 3. Exchange or conversion of rights, securities or
15 interests. Rights or securities of or interests in a limited
16 liability company or other business entity that is a party to the
17 merger or consolidation may be exchanged for or converted into
18 cash, property, obligations, rights or securities of or interests
19 in the surviving or resulting limited liability company or other
20 business entity.

22 **Sec. 27. 31 MRSA §§742 and 743,** as enacted by PL 1993, c.
23 718, Pt. A, §1, are amended to read:

24 **§742. Approval of merger or consolidation**

26
27 **1. Majority approval required.** Unless otherwise provided
28 in writing in the operating agreement or in the articles of
29 organization, a limited liability company that is a party to a
30 proposed merger or consolidation must approve the merger or
31 consolidation agreement by the consent of ~~more than 1/2 by number~~
32 of the members a majority in interest of the members or, if there
33 is more than one class or group of members, by consent of a
34 majority in interest of the members of each class or group.

36 **2. Manner of approval.** ~~A foreign limited liability company~~
37 Each limited liability company or other business entity that is a
38 party to a proposed merger or consolidation pursuant to section
39 741-A shall approve the merger or consolidation in the manner and
40 by the vote required by the laws applicable to such a business
41 entity and, to the extent allowed under such laws, its governing
42 documents.

44 **3. Rights to abandon merger.** A Each business entity that
45 is a party to the merger or consolidation has those rights to
46 abandon the merger or consolidation that are provided for in the
47 merger or consolidation agreement or the laws applicable to the
48 business entity.

50 **§743. Plan of merger or consolidation**

2 **1. Written plan.** Each constituent limited liability
3 company or other business entity that is a party to the merger or
4 consolidation shall enter into a written plan of merger or
5 consolidation, ~~which~~ that must be approved in accordance with
6 section 742.

8 **2. Plan requirements.** The plan of merger or consolidation
9 must set forth:

10 A. The name and current jurisdiction of each limited
11 liability company or other business entity that is a party
12 to the merger or consolidation and the name and jurisdiction
13 of the surviving ~~limited liability company into which each~~
14 ~~other party proposes to merge or the new limited liability~~
15 ~~company into which each party proposes to consolidate~~ or
16 resulting business entity into which each limited liability
17 company or other business entity merges or consolidates;

18 B. The terms and conditions of the proposed merger or
19 consolidation and the mode of carrying the merger or
20 consolidation into effect;

21 C. The manner and basis of converting the interests in each
22 limited liability company or the shares of stock or other
23 interests in each other business entity that is a party to
24 the merger or consolidation into interests, shares, or other
25 securities or obligations, as the case may be, of the
26 surviving or new resulting limited liability company or
27 other business entity or, in whole or in part, into cash or
28 other property;

29 D. ~~In the case of a merger, such amendments to the articles~~
30 ~~of the surviving limited liability company as desired to be~~
31 ~~effected by the merger or that these amendments are not~~
32 ~~desired;~~

33 D-1. In the case of a merger, a statement of any changes in
34 or a restatement of the organizing documents of the
35 surviving business entity; a statement that the organizing
36 documents of the surviving business entity remain unchanged;
37 or in the case of a consolidation, with respect to the
38 resulting business entity, all of the statements required to
39 be set forth in the organizing documents for that type of
40 business entity; and

41 E. ~~In the case of a consolidation, all of the statements~~
42 ~~required to be set forth in the articles of organization of~~
43 ~~the new limited liability company; and~~

44

2 F. Other provisions relating to the proposed merger or
consolidation determined necessary or desirable.

4 **Sec. 28. 31 MRSA §744, sub-§1**, as enacted by PL 1993, c. 718,
Pt. A, §1, is amended to read:

6
8 **1. Certificate of merger or consolidation.** The limited
liability company or other business entity surviving or resulting
10 from the merger or consolidation shall deliver to the Secretary
of State a certificate of merger or consolidation executed by
12 each constituent limited liability company or other business
entity setting forth:

14 A. The name and current jurisdiction ~~of organization~~ of
each limited liability company or other business entity that
16 is to merge or consolidate;

18 B. That an agreement of merger or consolidation has been
approved and executed by each limited liability ~~entity~~
20 company or other business entity that is a party to the
merger or consolidation;

22 C. The name of the surviving or resulting limited liability
24 company or other business entity;

26 D. The date when the merger or consolidation is to take
effect, ~~if the effective date is postponed to a date~~, not to
28 exceed 60 days, subsequent to the filing date of the
certificate of merger or consolidation;

30 E. That the agreement of merger or consolidation is on file
32 at a place of business of the surviving or resulting limited
liability company or other business entity and shall ~~shall~~ must
34 state the address ~~thereof~~ of the entity;

36 F. That a copy of the agreement of merger or consolidation
will be furnished by the surviving or resulting limited
38 liability company or other business entity on request and
without cost, to a person holding an interest in a limited
40 liability company or other business entity that is to merge
or consolidate; and

42 G. If the surviving or resulting limited liability company
44 or other business entity is not organized under the laws of
this State, a statement that the surviving or resulting
46 limited liability company or other business entity:

48 (1) Agrees that it may be served with process in this
State in a proceeding for enforcement of an obligation
50 of a party to the merger or consolidation that was

2 organized under the laws of this State, as well as for
enforcement of an obligation of the surviving or new
4 resulting limited liability company or other business
entity arising from the merger or consolidation; and

6 (2) Appoints the Secretary of State as its agent for
service of process in any such proceeding and the
8 surviving or new resulting limited liability company or
other business entity shall specify the address to
10 which a copy of the process must be mailed by the
Secretary of State.;

12 H. If shareholder approval of any corporation party to the
14 merger or consolidation was not required, a statement to
that effect;

16 I. If approval of the shareholders of one or more
18 corporations party to the merger or consolidation was
required;

20 (1) The designation, number of outstanding shares and
22 number of votes entitled to be cast by each voting
group entitled to vote separately on the plan as to
24 each corporation; and

26 (2) Either the total number of undisputed votes cast
for and against the plan by each voting group entitled
28 to vote separately on the plan or the total number of
votes cast for the plan separately by each voting group
30 and a statement that the number cast for the plan by
each voting group was sufficient for approval by that
32 voting group;

34 J. In the case of a merger, a statement of any changes in
or a restatement of the organizing documents of the
36 surviving business entity; a statement that the organizing
documents of the surviving business entity remain unchanged;
38 or in the case of a consolidation, with respect to the
resulting business entity, all of the statements required to
40 be set forth in the organizing documents for that type of
business entity;

42 K. A statement to the effect that the merger or
44 consolidation was effected in compliance with the laws
applicable to mergers or consolidations of all parties to
46 the merger or consolidation; and

48 L. An agreement that the surviving or resulting business
entity shall continue to comply with all provisions of all
50 laws applicable to mergers or consolidations of all parties

2 to the merger or consolidation, including, without
3 limitation, provisions on payment of amounts to which
4 dissenting shareholders are entitled.

6 **Sec. 29. 31 MRSA §744, sub-§§4 and 5**, as enacted by PL 1993, c.
7 718, Pt. A, §1, are amended to read:

8 **4. Certificate of cancellation of domestic limited**
9 **liability company.** The certificate of merger or consolidation
10 acts as a certificate of cancellation for a domestic limited
11 liability company or other business entity that is not the
12 surviving or resulting business entity in the merger or
13 consolidation.

14 **5. Operating agreement of surviving limited liability**
15 **company.** An A written agreement of merger or consolidation
16 approved in accordance with section 742 may effect an amendment
17 to the operating agreement or effect the adoption of a new
18 operating agreement for a limited liability company if it is the
19 surviving or resulting limited liability company in the merger or
20 consolidation. An approved written plan of merger or
21 consolidation may also provide that the operating agreement of
22 any constituent limited liability company to the merger or
23 consolidation, including a limited liability company formed for
24 the purpose of consummating a merger or consolidation, must be
25 the operating agreement of the surviving limited liability
26 company. An amendment to an operating agreement or adoption of a
27 new operating agreement made pursuant to this subsection is
28 effective at the effective time ~~or~~ and date of the merger or
29 consolidation. This subsection may not be construed to limit the
30 accomplishment of a merger or consolidation or of any of the
31 matters referred to in this subsection, by any other means
32 provided for in an operating agreement or other agreement or as
33 otherwise permitted by law, including that the operating
34 agreement of a constituent limited liability company to the
35 merger or consolidation including a limited liability company
36 formed for the purpose of consummating a merger or consolidation,
37 must be the operating agreement of the surviving or resulting
38 limited liability company.

40 **Sec. 30. 31 MRSA §745**, as enacted by PL 1993, c. 718, Pt. A,
41 §1, is amended to read:

44 **§745. Effects of merger or consolidation**

46 A merger or consolidation has the following effects.

48 **1. Single entity.** The limited liability companies or other
49 business entities that are parties to the merger or consolidation
50 agreement become a single entity, which in the case of a merger

2 is the limited liability company or other business entity
designated in the plan of merger as the survivor, and in the case
4 of a consolidation is the new resulting limited liability company
or other business entity provided for in the plan of
consolidation.

6
8 **2. Separate existence ceases.** The separate existence of
each party to the merger or consolidation agreement, except for
10 the surviving or new resulting limited liability company or other
business entity, ceases.

12 **3. Rights and restrictions on surviving or resulting**
limited liability company or other business entity. The
14 surviving or new resulting limited liability company or other
business entity possesses all the rights, privileges, immunities
16 and powers and franchises of each constituent limited liability
company or other business entity and is subject to all the
18 restrictions, disabilities and duties of each of the parties to
the extent that those rights, privileges, immunities, powers,
20 franchises, restrictions, disabilities and duties are applicable.

22 **4. Interests of constituent limited liability companies or**
other business entities. All property, real, personal and mixed
24 and all debts due, including promises to make capital
contributions and subscriptions for shares or interests, and all
26 other choses in action and all other interests of or belonging
to or due to each of the constituent entities vest in the
28 surviving or new resulting limited liability company or other
business entity without further act or deed.

30
32 **5. Real estate titles do not revert.** The title to all real
estate and any interest in real estate vested in a constituent
34 limited liability company or other business entity do not revert
and are not in any way impaired by reason of the merger or
consolidation.

36
38 **6. Liabilities and obligations.** The surviving or new
resulting limited liability company or other business entity is
40 liable for all liabilities and obligations of each of the
constituent limited liability companies or other business
42 entities so merged or consolidated and any claim existing or
action or proceeding pending by or against a constituent limited
44 liability company or other business entity may be prosecuted as
if the merger or consolidation had not taken place or the
46 surviving or new resulting limited liability company or other
business entity may be substituted in the action.

48 **7. Impairment of creditor's rights or liens.** Neither the
rights of creditors nor any liens on the property of a
50 constituent limited liability company or other business entity
are impaired by the merger or consolidation.

2 **8. Membership or other interests.** The membership or other
3 interests in a limited liability company or the shares or other
4 interests of another business entity that are to be converted or
5 exchanged into interests, cash, obligations or other property
6 under the terms of the merger or consolidation agreement are so
7 converted and the former holders of the membership or other
8 interests are entitled only to the rights provided in the merger
9 or consolidation agreement or the rights otherwise provided by
10 law.

12 **Sec. 31. 31 MRSA §§746 and 747** are enacted to read:

14 **§746. Conversion of business entity**

16 **1. Definitions.** For purposes of this section, "business
17 entity" or "business entities" means domestic or foreign
18 corporations, limited liability companies, general partnerships
19 and limited partnerships.

20 **2. Authority.** A business entity may convert to another
21 type of business entity by complying with the requirements of
22 Title 13-A, section 912.

24 **§747. Approval of conversion of limited liability company or**
25 **other business entity**

28 A limited liability company may convert to another business
29 entity, as described in section 746, other than a limited
30 liability company, upon the authorization of the conversion in
31 accordance with this section and to the extent authorized by and
32 in accordance with applicable statutes to convert to any other
33 business entity. If the operating agreement specifies the manner
34 of authorizing a conversion of the limited liability company, the
35 conversion is authorized as specified in the provisions of the
36 operating agreement, as long as the provisions do not explicitly
37 exclude conversions. If the operating agreement does not specify
38 the manner of authorizing a conversion of the limited liability
39 company and does not prohibit a conversion, the conversion is
40 authorized in the same manner as is specified in the operating
41 agreement for authorizing a merger or consolidation that involves
42 the limited liability company as a constituent party to the
43 merger or consolidation. If the operating agreement does not
44 specify the manner of converting a limited liability company or
45 the merger or consolidation of the limited liability company, the
46 conversion is authorized in the same manner as is specified in
47 section 742 authorizing a merger or consolidation that involves
48 the limited liability company that is a constituent party to the
49 merger or consolidation.

50

2 **Sec. 32. 31 MRSA §751, sub-§8**, as enacted by PL 1993, c. 718,
Pt. A, §1, is amended to read:

4 **8. Articles of organization or amendment, certificate of**
cancellation, merger or consolidation. For filing of articles of
6 organization under section 622, a fee of \$105; articles of
amendment under section 623, except as provided in subsection 6
8 or a certificate of cancellation under section 625 ~~or~~, a fee of
\$60; and a certificate of merger or consolidation under section
10 744, a fee of ~~\$250~~ \$80;

12 **Sec. 33. 31 MRSA §751, sub-§12**, as amended by PL 1997, c. 376,
§58, is further amended to read:

14 **12. Foreign limited liability companies.** For filing of an
16 application for authority to do business as a foreign limited
liability company under section 712, a fee of \$180, and for a
18 certificate of amendment under section 715, except as provided in
subsection 13 or a certificate of cancellation under section 717,
20 a fee of ~~\$250~~ \$60. For filing a certificate of amendment under
section 715 to change the address of the registered or principal
22 office, a fee in the amount of \$30;

24 **Sec. 34. 31 MRSA §751, sub-§22**, as amended by PL 1997, c. 376,
§59, is further amended to read:

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

30 **Sec. 35. 31 MRSA §751, sub-§23**, as enacted by PL 1997, c. 376,
32 §60, is amended to read:

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

36 **Sec. 36. 31 MRSA §751, sub-§§24 and 25** are enacted to read:

38 **24. Certificate of merger or consolidation.** Certificate of
40 merger or consolidation of a limited liability company with
another type of business entity as provided by section 741-A, a
42 fee of \$150; and

44 **25. Certificate of conversion.** Certificate of conversion
46 of limited liability company to another type of business entity
as provided by section 746, a fee of \$125.

48 **Sec. 37. 31 MRSA §803, sub-§1, ¶A**, as enacted by PL 1995, c.
50 633, Pt. B, §1, is amended to read:

2 A. Must contain the words "Limited Liability Partnership"
3 or the abbreviation "L.L.P.," or the designation "LLP,"
4 unless filing an assumed name under section 805 or a
5 registration of name under section 806. If the words
6 "Limited Liability Partnership" or "Limited Liability
7 Partnership, Chartered" or "Limited Liability Partnership,
8 P.A.," or any of the designations used in this paragraph
9 without commas, are used, a limited liability partnership
10 may also use the abbreviation "L.L.P." or the designation
11 "LLP" without filing an assumed name under section 805; and
12

13 **Sec. 38. 31 MRSA §871, sub-§8**, as amended by PL 1997, c. 633,
14 §22, is further amended to read:

15 **8. Certificate of limited liability partnership, amendment**
16 **or renunciation.** For filing a certificate of limited liability
17 partnership under section 822, a fee of \$105; a certificate of
18 amendment under section 823, except as provided in subsection 6,
19 or a certificate of renunciation under section 825, a fee of ~~\$250~~
20 \$60. For filing a certificate of amendment under section 823 to
21 change the name or address of the contact partner, the fee is \$20;
22

23 **Sec. 39. 31 MRSA §871, sub-§10**, as amended by PL 1997, c. 633,
24 §23, is further amended to read:

25 **10. Foreign limited liability partnerships.** For filing an
26 application for authority to do business as a foreign limited
27 liability partnership under section 852, a fee of \$180; a
28 certificate of amendment under section 855, except as provided in
29 subsection 12, or a certificate of cancellation under section
30 857, a fee of ~~\$250~~ \$60. For filing a certificate of amendment
31 under section 855 to change the address of the registered or
32 principal office or to change the name or address of the contact
33 partner, the fee is \$30;
34

35 **Sec. 40. 36 MRSA §4641-C, sub-§17**, as repealed and replaced by
36 PL 1995, c. 462, Pt. A, §70, is amended to read:

37 **17. Deeds to charitable conservation organizations.** Deeds
38 for gifts of land or interests in land granted to bona fide
39 nonprofit institutions, organizations or charitable trusts under
40 state law or charter, a similar law or charter of any other state
41 or the Federal Government that meet the conservation purposes
42 requirements of Title 33, section 476, subsection 2, paragraph B
43 without actual consideration for the deeds; and
44

45 **Sec. 41. 36 MRSA §4641-C, sub-§18**, as enacted by PL 1995, c.
46 462, Pt. A, §71, is amended to read:
47

48
49
50

2 18. **Limited liability company deeds.** Deeds to a limited
liability company from a corporation, a general or limited
4 partnership or another limited liability company, when the
grantor or grantee owns an interest in the limited liability
6 company in the same proportion as the grantor's or grantee's
interest in or ownership of the real estate being conveyed.

8 **Sec. 42. 36 MRSA §4641-C, sub-§§19 and 20** are enacted to read:

10 19. Deeds pursuant to conversions. Deeds made pursuant to
conversions of business entities pursuant to Title 13-A, section
12 912 or Title 31, sections 418 and 746; and

14 20. Deeds pursuant to mergers or consolidations. Deeds
made pursuant to mergers or consolidations of business entities
16 pursuant to Title 13-A, section 911 or Title 31, section 417 or
741-A, in each case where the only consideration received is
18 equity interests in the resultant business entity or the
beneficial ownership of the real estate does not change as a
20 result of the merger or consolidation.

22
24 **SUMMARY**

This bill authorizes mergers and consolidations between
26 corporations and other business entities; permits same-entity and
inter-entity mergers and consolidations for business entities
28 other than corporations; and sets a fee for these new filings.

30 This bill also permits any business entity other than a
general partnership to convert to another type of business entity
32 and sets a fee for these new filings.

34 In order to provide consistency in certain fee amounts, this
bill increases the amendment fees for all business corporations;
36 increases the fee for mergers of foreign business corporations;
and decreases the amendment fees, as well as the initial fee for
38 organizing or qualifying a limited liability company, limited
partnership and limited liability partnership.

40 The bill allows limited liability companies, limited
42 liability partnerships and limited partnerships to use an assumed
name that does not include the respective designations "LLC,"
44 "LLP" and "LP" as part of the name.

46 The bill also eliminates the rights of 3rd parties to
request disclosure of the names of "limited" owners of limited
48 liability companies, limited liability partnerships and limited
partnerships.

2 This bill clarifies that there is no right for a withdrawing
member of a limited liability company to demand payment for a
4 membership interest, but also clarifies how the membership
interest would be paid if the limited liability company elects to
6 pay such withdrawing member's interest.