

HOUSE No. 378

By Mr. Scaccia of Boston, petition of William F. Galvin relative to limited partnerships and limited liability companies. Economic Development and Emerging Technologies.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO LIMITED PARTNERSHIPS AND LIMITED LIABILITY COMPANIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 109 Section 3 of the General Laws, as
2 appearing in the 2002 Official Edition, is hereby amended by
3 striking in lines 18 and 19 the word “thirty” and inserting in place
4 thereof the word:— sixty.

1 SECTION 2. Chapter 109 of the General Laws, as so
2 appearing, is hereby amended by adding after Section 4 the
3 following new section:—

4 4A.

5 (a) A limited partnership may change its resident agent or the
6 street address of the resident agent by filing a certificate of change
7 of agent or office in the office of the secretary of state. The state-
8 ment of change shall set forth:—

9 (1) the name of the limited partnership;

10 (2) the name and street address of its current resident agent;

11 (3) if the current resident agent is to be changed, the name and
12 street address of the new resident agent, and the new agent’s
13 written consent, either on the statement or attached to it, to the
14 appointment;

15 (4) if the street address of the business office of the resident
16 agent is to be changed, the new street address of the business
17 office of the resident agent.

18 (b) If a resident agent changes the street address of his business
19 office, he may change the street address of the business office of
20 any limited partnership for which he is resident agent by notifying
21 the limited partnership in writing of the change and signing (either
22 manually or by facsimile) and delivering to the secretary of state
23 for filing a statement of change that complies with the require-
24 ments of subsection (a) and recites that the limited partnership has
25 been notified of such change. If the street address of more than
26 one limited partnership is being changed at the same time, there
27 may be included in a single certificate the names of all limited
28 partnerships the street addresses of the business office of which
29 are being changed.

30 (c) any resident may resign his agency appointment by signing
31 and delivering to the secretary of state a certificate of resignation.
32 The resident agent shall furnish a copy of such statement to the
33 limited partnership. The agency appointment is terminated on the
34 thirty-first day on which the statement was filed.

1 SECTION 3. Section 8 of Chapter 109, as so appearing is
2 hereby amended by striking clause (a)(3) and inserting in place
3 thereof:—

4 (3) the address of the office and the name and address of the
5 agent for service of process required to be maintained by Section
6 four. The agent's written consent to the appointment as agent shall
7 be either in the certificate or attached to it.

1 SECTION 4. Section 49 of Chapter 109 as amended by Chapter
2 178 of the Acts of 2004 is hereby amended by striking clause (7)
3 and inserting in place thereof:—

4 (7) the name and business address of its resident agent and the
5 agent's written consent, either on the certificate or attached to it,
6 to its appointment as agent; and

1 SECTION 5. Section 52 of Chapter 109, as appearing in the
2 2002 Official Edition, is hereby amended by striking said section
3 and inserting in place thereof:—

4 52. Each foreign limited partnership doing business in the
5 Commonwealth shall appoint a resident agent as its true and
6 lawful attorney upon whom all lawful process in any action or

7 proceeding against such foreign limited partnership in the Com-
8 monwealth may be served. The provisions of Chapter 156D
9 Section 15.07, 15.08 and 15.09 relative to the appointment and
10 qualifications of a resident agent shall be applicable to the
11 appointment of a resident agent pursuant to this section.

1 SECTION 6. Chapter 109 as so appearing is hereby amended
2 by adding after Section 62 the following new sections:—

3 63. Annual report.

4 (a) Each domestic limited partnership and foreign limited part-
5 nership authorized to transact business in the Commonwealth
6 shall file an annual report with the secretary of state on or before
7 the anniversary date of the filing of the certificate of limited part-
8 nership. The annual report shall contain all information required
9 to be included in the certificate of limited partnership.

10 (b) The fee for filing the annual report shall be \$500 if the
11 report is filed on paper or via fax. The fee for filing the annual
12 report electronically shall be \$450.

13 64. Administrative Dissolution.

14 (a) The secretary of state may commence a proceeding to dis-
15 solve a limited partnership if:—

16 (1) the limited partnership has failed to comply with the provi-
17 sion of law requiring the filing of annual reports with the secretary
18 of state for two or more consecutive years; or

19 (2) the secretary of state is satisfied that the limited partnership
20 has become inactive and its dissolution would be in the public
21 interest.

22 (b) If the secretary of state determines that one or more grounds
23 exist under sub-section (a), he shall serve the limited partnership
24 with written notice of his determination. The notice shall be sent
25 to the address of the office in the Commonwealth required by
26 Section 4(1). If the limited partnership does not correct each
27 ground for dissolution or demonstrate to the reasonable satisfac-
28 tion of the secretary of state that each ground determined by the
29 secretary of state does not exist within 90 days of the date of the
30 notice, the secretary of state shall administratively dissolve the
31 limited partnership.

32 (c) A limited partnership administratively dissolved continues
33 its existence, but may not carry on any business except that neces-
34 sary to wind up and liquidate its affairs.

35 65. Reinstatement. A limited partnership administratively dis-
36 solved under Section 64 or whose authority to transact business in
37 the Commonwealth has been revoked under Section 66 may apply
38 to the secretary of state for reinstatement at any time. The applica-
39 tion shall:—

40 (1) recite the name of the limited partnership and the effective
41 date of its administrative dissolution or revocation;

42 (2) state that the ground or grounds for dissolution or revoca-
43 tion either did not exist or have been eliminated;

44 (3) state that the name of the limited partnership satisfies the
45 requirements of Section 2. If the secretary of state determines that
46 the application contains the information and that such information
47 is correct, he shall reinstate the limited partnership.

48 66. Revocation of Authority to Transact Business.

49 (a) The secretary of state may commence a proceeding to
50 revoke the authority of a foreign limited partnership to transact
51 business in the Commonwealth if:—

52 (1) the limited partnership has failed to comply with the provi-
53 sions of law requiring the filing of annual reports with the secre-
54 tary of state for two or more consecutive years; or

55 (2) the secretary of state is satisfied that the revocation of the
56 limited partnership's authority to transact business in the Com-
57 monwealth would be in the public interest.

58 (b) If the secretary of state determines that one or more grounds
59 exist under subsection (a), he shall serve the limited partnership
60 with written notice of his determination. The notice shall be sent
61 to the address of the foreign limited partnership. If the limited
62 partnership does not correct each ground for revocation or demon-
63 strate to the reasonable satisfaction of the secretary of state that
64 each ground determined by the secretary of state does not exist
65 with 90 days of the date of the notice, the secretary of state shall
66 administratively revoke the authority of the foreign limited part-
67 nership to do business in the Commonwealth.

68 (c) The authority of the foreign limited partnership to transact
69 business in the Commonwealth ceases on the date on which the
70 secretary of state makes such revocation effective.

1 SECTION 7. Chapter 156C Section 4 of the General Laws as
2 appearing in the 2002 Official Edition is hereby amended by
3 striking in lines 18 and 19 the word “thirty” and inserting in place
4 thereof the word:— sixty

1 SECTION 8. Chapter 156C of the General Laws, as so
2 appearing, is hereby amended by adding after Section 5 the
3 following new section:—

4 5A

5 (a). A limited liability company may change its resident agent
6 or the street address of the resident agent by filing a certificate of
7 change of agent or office in the office of the state secretary. The
8 statement of change shall set forth:—

9 (1) the name of the limited liability company;

10 (2) the name and street address of its current resident agent;

11 (3) if the current resident agent is to be changed, the name and
12 street address of the new resident agent and the new agent’s
13 written consent, either on the statement or attached to it, to the
14 appointment;

15 (4) if the street address of the business office of the resident
16 agent is to be changed, the new street address.

17 (b) If a resident agent changes the street address of his business
18 office, he may change the street address of the business office of
19 any limited liability company for which he is resident agent by
20 notifying the limited liability company in writing of the change
21 and signing (either manually or in facsimile) and delivering to the
22 secretary of state for filing a statement of change that complies
23 with the requirements of subsection (a) and recites that the limited
24 liability company has been notified of such change. If the street
25 address of more than one limited liability company is being
26 changed at the same time, there may be included in a single cer-
27 tificate the names of all limited liability companies the street
28 address of the business office of which are being changed.

29 (c) any resident agent may resign his agency appointment by
30 signing and delivering to the secretary of state a certificate of res-
31 ignation. The resident agent shall furnish a copy of such statement
32 to the limited liability company. The agency appointment is termi-
33 nated on the thirty-first day after the date on which the statement
34 was filed.

1 SECTION 9. Section 12 of Chapter 156C as so appearing is
2 hereby amended by striking clause (a)(3) and inserting in place
3 thereof:—

4 (3) the name and address of the resident gent for service of
5 process required to be maintained by Section five, and the agent's
6 written consent, either on the certificate or attached to it, to its
7 appointment as agent.

1 SECTION 10. Section 48 of Chapter 156C as amended by
2 Chapter 178 of the Acts of 2004, is hereby amended by striking
3 clause (7) and inserting in place thereof:—

4 (7) the name and address of the resident agent of the foreign
5 limited liability company and the agent's written consent, either
6 on the certificate or attached to it, to its appointment as agent.

1 SECTION 11. Section 51 of the said Chapter 156C, as amended
2 by Chapter 178 of the Acts of 2004, is hereby amended by striking
3 Section 51 and inserting in place thereof:—

4 51. Each foreign limited liability company doing business in
5 the Commonwealth shall appoint a resident agent as its true and
6 lawful attorney upon whom all lawful process in any action or
7 proceeding against such foreign limited liability company in the
8 Commonwealth may be served. The provisions of Chapter 156D
9 Section 15.07, Section 15.08 and Section 15.09 relative to the
10 appointment and qualification of a resident agent shall be applic-
11 able to the appointment of a resident agent pursuant to this
12 section.

1 SECTION 12. Chapter 156C is hereby amended by adding after
2 Section 69 the following sections:—

3 70. Administrative Dissolution.

4 (a) The secretary of state may commence a proceeding to dis-
5 solve a limited liability company if:—

6 (1) the limited liability company has failed to comply with the
7 provisions of law requiring the filing of annual reports with the
8 secretary of state for two or more consecutive years; or

9 (2) the secretary of state is satisfied that the limited liability
10 company has become inactive and its dissolution would be in the
11 public interest.

12 (b) If the secretary of state determines that one or more grounds
13 exist under sub-section (a), he shall serve the limited liability
14 company with written notice of his determination. The notice shall
15 be sent to the address of the office in the Commonwealth required
16 by Section 5. If the limited liability company does not correct
17 each ground for dissolution or demonstrate to the reasonable satis-
18 faction of the secretary of state that each ground determined by
19 the secretary of state does not exist within 90 days of the date of
20 the notice, the secretary of state shall administratively dissolve the
21 limited liability company.

22 (c) A limited liability company administratively dissolved con-
23 tinues its existence, but may not carry on any business except that
24 necessary to wind up and liquidate its affairs.

25 71. Reinstatement.

26 A limited liability company administratively dissolved or
27 whose authority to transact business in the Commonwealth has
28 been revoked under Sections 70 and 72 may apply to the secretary
29 of state for reinstatement at any time. The application shall:—

30 (1) recite the name of the limited liability company and the
31 effective date of its administrative dissolution or revocation;

32 (2) state that the ground or grounds for dissolution or revoca-
33 tion either did not exist or have been eliminated;

34 (3) state that the name of the limited liability company satisfies
35 the requirements of Section 3.

36 If the secretary of state determines that the application contains
37 the information required and that such information is correct, he
38 shall reinstate the limited liability company.

39 72. Revocation of Authority to Transact Business.

40 (a) The secretary of state may commence a proceeding to
41 revoke the authority of a foreign limited liability company to
42 transact business in the Commonwealth if:—

43 (1) the limited liability company has failed to comply with the
44 provisions of law requiring the filing of annual reports with the
45 secretary of state for two or more consecutive years; or

46 (2) the secretary of state is satisfied that the revocation of the
47 limited liability company's authority to transact business in the
48 Commonwealth would be in the public interest.

49 (b) If the secretary of state determines that one or more grounds
50 exist under subsection (a), he shall serve the limited liability com-

51 pany with written notice of his determination. The notice shall be
52 sent to the address of the foreign limited liability company. If the
53 limited liability company does not correct each ground for revoca-
54 tion or demonstrate to the reasonable satisfaction of the secretary
55 of state that each ground determined by the secretary of state does
56 not exist with 90 days of the date of the notice, the secretary of
57 state shall administratively revoke the authority of the foreign lim-
58 ited liability company to do business in the Commonwealth.

59 (c) The authority of the foreign limited liability company to
60 transact business in the Commonwealth ceases on the date on
61 which the secretary of state makes such revocation effective.