

HOUSE No. 4298

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, October 15, 2007.

The committee on Economic Development and Emerging Technologies, to whom was referred the petition (accompanied by bill, House, No. 379) of William F. Galvin relative to the conversion of certain limited partnerships, reports recommending that the accompanying bill (House, No. 4298) ought to pass.

For the committee,

DANIEL E. BOSLEY.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO THE CONVERSION OF CERTAIN LIMITED PARTNERSHIPS.

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 of the General Laws, as appearing in
2 the 2006 Official Edition, is hereby amended by adding after
3 Section 43 the following new section:—

4 43A. Conversions. (a) As used in this section, an “other entity”
5 means a corporation organized under Chapter 156D, a corporation
6 organized under Chapter 180, a foreign business corporation, a
7 foreign nonprofit corporation and any association or entity other
8 than a governmental or quasi-governmental organization. The
9 term includes, without limitation, limited liability companies,
10 general partnerships, limited liability partnerships, joint venture,
11 joint stock companies, business trusts and profit and not-for-profit
12 unincorporated associations.

13 (b) A limited partnership may convert into an other entity and
14 an other entity may convert into a limited partnership, provided in
15 each case that if an other entity exists pursuant to the authority of
16 a chapter of the General Laws, that chapter permits the conver-
17 sion, and if an other entity is organized under the laws of a foreign
18 jurisdiction, the laws of that jurisdiction permit the conversion.

19 (c) A limited partnership converting into an other entity shall
20 comply with the terms of this section and of its certificate of lim-
21 ited partnership and its partnership agreement, to the extent they
22 are applicable. An other entity converting into a limited
23 partnership shall comply with the terms of any laws applicable to
24 it and of its organic documents, to the extent they are applicable.

25 (d) A limited partnership or an other entity converting pursuant
26 to the authority of this section (herein the “converting entity”)
27 shall adopt a plan of entity conversion that contains substantially
28 the information required by Section 9.51 of Chapter 156D to be
29 contained in a plan of entity conversion of a business corporation,

30 modified to account for the nature of the converting entity, as well
31 as any information required by any laws applicable to the con-
32 verting entity. The plan shall be approved by the converting entity
33 in the manner an amendment of its organic documents must be
34 approved.

35 (e) The converting entity shall file with the state secretary, and
36 with any other governmental agency with which the converting
37 entity or the surviving entity is required to make public filings,
38 articles of entity conversion that contain substantially the informa-
39 tion required by Section 9.53 of Chapter 156D to be contained in
40 articles of entity conversion of a business corporation or a
41 domestic or foreign other entity, modified to account for the
42 nature of the converting entity and the surviving entity.

43 (f) The effect of a conversion authorized by this section shall be
44 the same as is provided in Section 9.55 of Chapter 156D.

1 SECTION 2. Chapter 156C of the General Laws, as appearing
2 in the 2006 Official Edition, is hereby amended by striking
3 Section 69 and inserting in place thereof:—

4 69. Conversions. (a) As used in this section, an “other entity”
5 means a corporation organized under Chapter 156D, a corporation
6 organized under Chapter 180, a foreign business corporation, a
7 foreign nonprofit corporation and any association or entity other
8 than a governmental or quasi-governmental organization. The
9 term includes, without limitation, limited partnerships, general
10 partnerships, limited liability partnerships, joint ventures, joint
11 stock companies, business trusts and profit and not-for-profit
12 unincorporated associations.

13 (b) A limited liability company may convert into an other entity
14 and an other entity may convert into a limited liability company,
15 provided in each case that if an other entity exists pursuant to the
16 authority of a chapter of the General Laws, that chapter permits
17 the conversion, and if an other entity is organized under the laws
18 of a foreign jurisdiction, the laws of that jurisdiction permit the
19 conversion.

20 (c) A limited liability company converting into an other entity
21 shall comply with the terms of this section and of its certificate of
22 organization and its operating agreement, to the extent they are
23 applicable. An other entity converting into a limited liability com-

24 pany shall comply with the terms of any laws applicable to it and
25 of its organic documents, to the extent they are applicable.

26 (d) A limited liability company or an other entity converting
27 pursuant to the authority of this section (herein the “converting
28 entity”) shall adopt a plan of entity conversion that contains sub-
29 stantially the information required by Section 9.51 of Chapter
30 156D to be contained in a plan of entity conversion of a business
31 corporation, modified to account for the nature of the converting
32 entity, as well as any information required by any laws applicable
33 to the converting entity. The plan shall be approved by the con-
34 verting entity in the manner an amendment of its organic docu-
35 ments must be approved.

36 (e) the converting entity shall file with the secretary of state,
37 and with any other governmental agency with which the con-
38 verting entity or the surviving entity is required to make public
39 filings, articles of entity conversion that contain substantially the
40 information required by Section 9.53 of Chapter 156D to be con-
41 tained in articles of entity conversion of a business corporation or
42 a domestic or foreign other entity, modified to account for the
43 nature of the converting entity and the surviving entity.

44 (f) The effect of a conversion authorized by this section shall be
45 the same as is provided in Section 9.55 of Chapter 156D.

1 SECTION 3. Section 9.50 of Chapter 156D is hereby amended
2 by striking clause (a) and inserting in place thereof:—

3 (a) A domestic business corporation may become a domestic
4 other entity, provided that in the case of an other entity that exists
5 pursuant to the authority of a chapter of the General Laws, that
6 chapter permits. The conversion shall be effected pursuant to a
7 plan of entity conversion. Section 9.55 governs the effect of con-
8 verting to that form of a domestic other entity.

1 SECTION 4. Section 9.50 of Chapter 156D is hereby further
2 amended by striking clause (c) and inserting in place thereof:—

3 (c) A domestic other entity may become a domestic business
4 corporation, provided that in the case of a domestic other entity
5 that exists pursuant to the authority of a chapter of the General
6 Laws, that chapter permits. Section 9.55 governs the effect of con-
7 verting to a domestic business corporation. If the organic law of a

8 domestic other entity, including the chapter of the General Laws
9 pursuant to which the other entity exists, does not provide proce-
10 dures for the approval of an entity conversion, the conversion
11 shall be adopted and approved, and the entity conversion effectu-
12 ated, in the same manner as a merger of the other entity and its
13 interest holders shall be entitled to appraisal rights if appraisal
14 rights are available upon any type of merger under the organic law
15 of the other entity. If the organic law of a domestic other entity
16 does not provide procedures for the approval of either an entity
17 conversion or a merger, a plan of entity conversion shall be
18 adopted and approved, the entity conversion effectuated, and
19 appraisal rights exercised, in accordance with the procedures in
20 this subdivision and PART 13 of this chapter. Without limiting the
21 provisions of this subsection, a domestic other entity whose
22 organic law does not provide procedures for the approval of an
23 entity conversion shall be subject to subsection (e) of this section
24 and clause (7) of Section 9.52. For purposes of applying this sub-
25 division and PART 13 of this chapter:—

26 (1) the other entity, its interest holders, interests and organic
27 documents taken together, shall be deemed to be a domestic busi-
28 ness corporation, shareholders, shares and articles of organization,
29 respectively, and vice versa, as the context may require; and

30 (2) if the business affairs of the other entity are managed by a
31 group of persons that is not identical to the interest holders, that
32 group shall be deemed to be the board of directors.

1 SECTION 5. Section 14.21 of Chapter 156D of the General
2 Laws is hereby amended by striking clause (a) and inserting in
3 place thereof:—

4 (a) If the secretary determines that one or more grounds exist
5 under Section 14.20 for dissolving a corporation, he shall provide
6 the corporation with written notice of his determination by mail to
7 the corporation at the address of its registered office or, if none,
8 its principal office. If the registered agent has agreed, the notice
9 may be provided by electronic mail.

1 SECTION 6. Section 14.23 of Chapter 156D of the General
2 Laws is hereby amended by striking clause (a) and inserting in
3 place thereof:—

4 (a) If the secretary of state denies a corporation's application
5 for reinstatement following administrative dissolution, he shall
6 provide the corporation with a written notice that explains the
7 reason or reasons for denial.

1 SECTION 7. Section 15.31 of Chapter 156D of the General
2 Laws is hereby amended by striking clause (a) and inserting in
3 place thereof:—

4 (a) If the secretary of state determines that one or more grounds
5 exist under Section 15.30 for revocation of the authority of a for-
6 eign corporation to transact business in the Commonwealth, he
7 shall provide the corporation with written notice of his determina-
8 tion by mail to the corporation at the address of its registered
9 office or, if none, to its principal office. If the registered agent has
10 agreed, the notice may be provided by electronic mail.