

**HOUSE . . . . . No. 4509**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Ten**  
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An Act MAKING AMENDMENTS TO THE MASSACHUSETTS CORPORATION ACT - PART TWO..

*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. Section 1.40 of chapter 156D is hereby further amended by striking out the  
2 word “stock” in each place where it appears and inserting in place thereof the following word:-  
3 shares.

4 SECTION 2. Section 2.05 of chapter 156D is hereby amended by striking out the word  
5 “bylaws” in each place where it appears and inserting in place thereof the following word:-  
6 bylaws.

7 SECTION 3. Section 2.05 of chapter 156D is hereby amended by striking out the word  
8 "and" in line 19 and inserting in place thereof the following word:- or.

9 SECTION 4. Section 3.02 of chapter 156D is hereby amended by striking out the word  
10 “stock” in each place where it appears and inserting in place thereof the following word:- shares.

11 SECTION 5. Clause (1) of subsection (a) of section 4.01 of chapter 156D is hereby  
12 amended by striking out its text in its entirety and inserting in place thereof the following words:-

13 shall contain the word “corporation,” “incorporated,” “company” or “limited” or the abbreviation  
14 “corp,” “inc,” “co,” or “ltd,” or words or abbreviations of like import in another language; and

15 SECTION 6. Section 6.02 of chapter 156D is hereby amended by striking out the word  
16 “recision” in line 40, and inserting in place thereof the following word:- rescission.

17 SECTION 7. Section 7.08 of chapter 156D is hereby amended by striking out the word  
18 "stockholder" in line 17, and inserting in place thereof the following word:- shareholder.

19 SECTION 8. Section 7.08 of chapter 156D is hereby amended by striking out the word  
20 "stockholder" in line 23, and inserting in place thereof the following word:- shareholder.

21 SECTION 9. Section 7.27(b) of Chapter 156D is deleted in its entirety and replaced by  
22 the following:—

23 (b) If any provision of this chapter requires the affirmative vote of more than a majority  
24 of all the votes entitled to be cast on a matter by any voting group, the articles of organization  
25 may provide that action may be taken by the affirmative vote of a lesser proportion than the  
26 chapter specifies, but not less than a majority of all the votes entitled to be cast on the matter by  
27 the voting group.

28 SECTION 10, Section 7.44(b)(3) of Chapter 156D is deleted in its entirety and replaced  
29 by the following:—

30 (3) the affirmative vote of a majority of all the votes entitled to be cast on the matter, not  
31 including the votes cast by holders of shares owned by or voted under the control of a  
32 shareholder or related person who has or had a beneficial financial interest in the act or omission

33 complained of or other interest therein that would reasonably be expected to exert an influence  
34 on that shareholder's or related person's judgment if called upon to vote in the determination.

35 SECTION 11. Section 8.06 of chapter 156D is hereby amended by striking out the words  
36 “shall, unless otherwise provided in the vote, shall become” in lines 53-54, and inserting in place  
37 thereof the following words:- shall, unless otherwise provided in the vote, become.

38 SECTION 12. Section 8.06 of chapter 156D is hereby amended by striking out the word  
39 “effect” in line 111, and inserting in place thereof the following word:- affect.

40 SECTION 13. Sections 8.06(c)(1) and (2) are deleted in their entirety and replaced by the  
41 following:—

42 (c) (1) Subsection (b) shall apply to every public corporation, whether or not notice of an  
43 annual meeting of the public corporation has been given on or prior to the effective date of this  
44 chapter, unless (i) the board of directors of the public corporation, or (ii) the holders of shares of  
45 each class of shares outstanding holding the right to cast two-thirds of all the votes entitled to be  
46 cast by the class, and the holders of two-thirds of the shares of each outstanding class of  
47 otherwise non-voting shares, each voting as a separate voting group, shall at a meeting duly  
48 called for the purpose of the vote adopt a vote providing that the corporation elects to be exempt  
49 from the provisions of subsection (b). Upon adoption of the vote, subsection (b) shall, unless  
50 otherwise provided in the vote, become immediately ineffective with respect to such public  
51 corporation and the provisions of section 8.05 shall become immediately effective with respect to  
52 the corporation as soon as subsection (b) of this section is no longer effective.

53 (2) In the event that any public corporation shall so elect by vote of the board of directors  
54 to be exempt pursuant to clause (1) the public corporation may at any time thereafter adopt a

55 vote of its board of directors electing to be subject to subsection (b). In the event that any public  
56 corporation shall so elect by the shareholders to be exempt pursuant to clause (1) of this  
57 subsection the public corporation may at any time thereafter by vote of the holders of the shares  
58 of all classes of stock outstanding, voting as a single voting group, holding the right to cast two-  
59 thirds of all the votes entitled to be cast by all classes, elect to be subject to the provisions of  
60 subsection (b). Upon adoption of the vote, subsection (b), unless otherwise provided in the vote,  
61 shall immediately become effective.

62 SECTION 14. Section 8.06(d) of Chapter 156D is deleted in its entirety and replaced by  
63 the following:—

64 (d) Notwithstanding anything to the contrary in this chapter or in the articles of  
65 organization or bylaws of any public corporation, in the case of directors of a public corporation  
66 whose terms are staggered pursuant to subsection (b), shareholders may, by the vote of the  
67 holders of shares having the right to cast a majority of all the votes entitled to be cast by the  
68 holders of all classes of stock outstanding and entitled to vote in the election of directors, voting  
69 as a single voting group, effect the removal of any director or directors or the entire board of  
70 directors only for cause.

71 SECTION 15. Section 8.10 of chapter 156D is hereby amended by striking out the word  
72 “bylaws” in line 12, and inserting in place thereof the following word:- bylaws.

73 SECTION 16. Section 8.32 of chapter 156D is hereby amended by striking out the words  
74 “the obligation of a director of, the corporation” in line 3, and inserting in place thereof the  
75 following words:- the obligation of, a director of the corporation.

76 SECTION 17. Section 8.31(d) of Chapter 156D is deleted in its entirety and replaced by  
77 the following:—

78 (d) For purposes of clause (2) of subsection (a), a conflict of interest transaction is  
79 authorized, approved, or ratified if it receives the affirmative vote of a majority of all the votes  
80 entitled to be cast on the matter entitled to be counted under this subsection. The votes of shares  
81 owned by or voted under the control of a director who has a direct or indirect interest in the  
82 transaction, and of shares owned by or voted under the control of an entity described in clause  
83 (1) of subsection (b), may not be counted in a vote of shareholders to determine whether to  
84 authorize, approve, or ratify a conflict of interest transaction under clause (2) of subsection (a).

85 SECTION 18. Section 8.45 of chapter 156D is hereby amended by striking out the words  
86 “clerk or an assistant clerk” in line 6, and inserting in place thereof the following words:-  
87 secretary or an assistant secretary.

88 SECTION 19. Section 8.54 of chapter 156D is hereby amended by striking out the words  
89 “sections 8.51 or 8.51” in lines 19-20, and inserting in place thereof the following words:-  
90 section 8.51.

91 SECTION 20. Section 8.58 of chapter 156D is hereby amended by striking out the words  
92 "articles of incorporation" in line 20, and inserting in place thereof the following words:- articles  
93 of organization.

94 SECTION 21. Section 8.58 of chapter 156D is hereby further amended by striking out the  
95 words "clause (3) of subsection (a) of section 11.07" in line 24, and inserting in place thereof the  
96 following words:- clause (4) of subsection (a) of section 11.07.

97 SECTION 22. Section 9.21 of chapter 156D is hereby amended by striking out the words  
98 "subsection (c) of section 9.21" in line 28, and inserting in place thereof the following words:-  
99 paragraph (3) of this section.

100 SECTION 23. Section 9.31 of chapter 156D is hereby amended by striking out the words  
101 "section 10.22" in line 27, and inserting in place thereof the following words:- section 10.21.

102 SECTION 24. Section 9.31 of chapter 156D is hereby further amended by striking out the  
103 words "plan of domestication" in line 30, and inserting in place thereof the following words:-  
104 plan of nonprofit conversion.

105 SECTION 25. Section 9.31 of chapter 156D is hereby further amended by striking out the  
106 words "section 9.31(c)" in line 35, and inserting in place thereof the following words:- section  
107 9.31(3).

108 SECTION 26. Section 9.52 of chapter 156D is hereby amended by striking out the words  
109 "organizational documents" in lines 16-17, and inserting in place thereof the following words:-  
110 organic documents.

111 SECTION 27. Section 9.52 of chapter 156D is hereby further amended by striking out the  
112 words "plan of domestication" in line 24, and inserting in place thereof the following words:-  
113 plan of conversion.

114 SECTION 28. Section 9.52 of chapter 156D is hereby further amended by striking out the  
115 words "subsection (c) of this section" in line 29, and inserting in place thereof the following  
116 words:- paragraph (3) of this section.

117 SECTION 29. Section 9.53 of chapter 156D is hereby amended by striking out the words  
118 “any other desired provisions that section 2.02 subsection (b) of permits” in lines 34-35, and  
119 inserting in place thereof the following words:- any other desired provisions that subsection (b)  
120 of section 2.02 permits.

121 SECTION 30. Clause (5) of subsection (a) of section 9.55 of chapter 156D is hereby  
122 amended by striking out the words "organizational document" in each place it appears and  
123 inserting in place thereof the following words:- organic document.

124 SECTION 31. Section 11.01 of chapter 156D is hereby amended by striking out the  
125 words "merger under a plan of merger" in line 9, and inserting in place thereof the following  
126 word:- merge under a plan of merger.

127 SECTION 32. Section 11.04 of chapter 156D is hereby further amended by striking out  
128 the words "subsection (c) of section 11.04" in lines 36-37, and inserting in place thereof the  
129 following words:- paragraph (3) of this section.

130 SECTION 33. Section 11.04 of chapter 156D is hereby amended by striking out the  
131 words "article of organization" in lines 38-39, and inserting in place thereof the following  
132 words:- articles of organization.

133 SECTION 34. Section 11.04 of chapter 156D is hereby amended by striking out the word  
134 "stock" in line 65, and inserting in place thereof the following word:- shares.

135 SECTION 35. Section 11.06 of chapter 156D is hereby amended by striking out the  
136 words "organizational documents" in line 28, and inserting in place thereof the following words:-  
137 organic documents.

138 SECTION 36. Section 11.07 of chapter 156D is hereby amended by striking out the  
139 words "organizational documents" in line 18, and inserting in place thereof the following words:-  
140 organic documents.

141 SECTION 37. Subsection (e) of section 12.02 of chapter 156D is hereby amended by  
142 striking out the words "subsection (c) of section 12.02" in each place it appears and inserting in  
143 place thereof the following words:- subsection (b) of this section 12.02.

144 SECTION 38. Section 13.02 of chapter 156D is hereby amended by striking out the  
145 words "other than in his capacity as (i) a shareholder of the corporation, (ii) a director, officer,  
146 employee or consultant of either the merging or the surviving corporation" in lines 14-17, and  
147 inserting in place thereof the following words:- other than (i) in his capacity as a shareholder of  
148 the corporation, (ii) in his capacity as a director, officer, employee or consultant of either the  
149 merging or the surviving corporation.

150 SECTION 39. Section 13.02 of chapter 156D is hereby amended by striking out the  
151 words "other than in his capacity as (i) a shareholder of the corporation whose shares are to be  
152 exchanged, (ii) a director, officer, employee or consultant of either the corporation whose shares  
153 are to be exchanged or the acquiring corporation" in lines 26-30, and inserting in place thereof  
154 the following words:- other than (i) in his capacity as a shareholder of the corporation, (ii) in his  
155 capacity as a director, officer, employee or consultant of either the merging or the surviving  
156 corporation.

157 SECTION 40. Section 13.02 of chapter 156D is hereby amended by striking out the  
158 words "other than in his capacity as (i) a shareholder of the corporation, (ii) a director, officer,  
159 employee or consultant of either the corporation or the acquiring corporation" in lines 51-53,



160 and inserting in place thereof the following words:- other than (i) in his capacity as a shareholder  
161 of the corporation, (ii) in his capacity as a director, officer, employee or consultant of either the  
162 merging or the surviving corporation.

163 SECTION 41. Section 13.02 of chapter 156D is hereby amended by striking out the  
164 words "transfer of registration or any outstanding shares" in lines 79-80, and inserting in place  
165 thereof the following words:- transfer of registration of any outstanding shares.

166 SECTION 42. Section 13.21 of chapter 156D is hereby amended by striking out the word  
167 "chapter" in line 13, and inserting in place thereof the following word:- PART.

168 SECTION 43. Section 13.22 of chapter 156D is hereby amended by striking out the word  
169 "chapter" in line 38, and inserting in place thereof the following word:- PART.

170 SECTION 44. Section 13.25 of chapter 156D is hereby amended by striking out the word  
171 "deserved" in line 31, and inserting in place thereof the following word:- described.

172 SECTION 45. Section 13.31 of chapter 156D is hereby amended by striking out the word  
173 "chapter" in line 20, and inserting in place thereof the following word:- PART.

174 SECTION 46. Section 14.30 of chapter 156D is hereby amended by striking out the word  
175 "stock" in line 11, and inserting in place thereof the following word:- shares.

176 SECTION 47. Section 14.34 of chapter 156D is hereby amended by striking out the word  
177 "stock" in line 24, and inserting in place thereof the following word:- shares.

178 SECTION 48. Section 15.01 of chapter 156D is hereby amended by inserting after the  
179 word "with" in line 29, the following word:- the.

180 SECTION 49. Section 15.03 of chapter 156D is hereby amended by striking out the word  
181 "agents" in line 14, and inserting in place thereof the following word:- agent's.

182 SECTION 50. Section 15.04 of chapter 156D is hereby amended by inserting after the  
183 word "information" in line 23, the following word:- in.

184 SECTION 51. Section 15.05 of chapter 156D is hereby amended by striking out the word  
185 "corporations" in line 12, and inserting in place thereof the following word:- corporation's.

186 SECTION 52. Section 15.05 of chapter 156D is hereby further amended by striking out  
187 the word "stockholders" in line 13, and inserting in place thereof the following word:-  
188 shareholders.

189 SECTION 53. Section 15.30 of chapter 156D is hereby amended by inserting after the  
190 words "or chapter 63" in line 6, the following words:- of the General Laws.

191 SECTION 54. Section 15.31 of chapter 156D is hereby amended by striking out the word  
192 "corporations" in line 13, and inserting in place thereof the following word:- corporation's.

193 SECTION 55. Section 15.31 of chapter 156D is hereby amended by striking out the word  
194 "corporations" in line 19, and inserting in place thereof the following word:- corporation's.

195 SECTION 56, Section 15.32 of chapter 156D is hereby amended by striking out the word  
196 "corporations" in line 10, and inserting in place thereof the following word:- corporation's.

197 SECTION 57. Section 16.21 of chapter 156D is hereby amended by striking out the title  
198 "BY-LAW AMENDMENTS" in line 1, and inserting in place thereof the following title:-  
199 BYLAW AMENDMENTS.