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LC00456/SUB A  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2012**

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A N A C T

RELATING TO CORPORATIONS, ASSOCIATIONS AND PARTNERSHIPS -- THE RHODE  
ISLAND LIMITED LIABILITY COMPANY ACT

Introduced By: Representatives Petrarca, Ucci, Keable, and Corvese

Date Introduced: January 11, 2012

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 7-16-8, 7-16-41, 7-16-42, 7-16-43 and 7-16-50 of the General  
2 Laws in Chapter 7-16 entitled "The Rhode Island Limited Liability Company Act" are hereby  
3 amended to read as follows:

4           **7-16-8. Filing.** -- (a) The secretary of state may not accept for filing any document under  
5 this chapter which does not conform with law.

6           (b) The secretary of state may not accept for filing any organizational document,  
7 qualification, registration, change of resident agent report, service of process, notice or other  
8 document until all required filing and other fees have been paid to the secretary of state.

9           (c) The secretary of state may not accept for filing any article of dissolution, cancellation  
10 of registration, article of merger, unless the surviving entity is a domestic entity of record with the  
11 office of the secretary of state, or the reinstatement of a limited liability company's certificate of  
12 organization or registration until all required filing and other fees have been paid to the secretary  
13 of state and all fees and franchise taxes have been paid.

14           (d) The secretary of state may not accept for filing a certificate of conversion to a non-  
15 Rhode Island entity until all required filing and other fees have been paid to the secretary of state  
16 and all fees and franchise taxes have been paid.

17           (e) When the secretary of state accepts the articles of organization [or a certificate of](#)  
18 [registration](#) or any other document [filed under this chapter](#), the secretary of state shall:

- 1 (1) Endorse on the document the date and time of its acceptance for filing;
- 2 (2) Promptly file the document; and
- 3 (3) Issue a certificate or other evidence which establishes:
  - 4 (i) That the document was accepted for filing by the secretary of state; and
  - 5 (ii) The date and time of the acceptance for filing.
- 6 (f) The document becomes effective upon the issuance of the certificate or other
- 7 evidence or at any later date that is set forth within the document, not more than thirty (30) days
- 8 after the filing of such document.

9 **7-16-41. Revocation of certificate of organization** **Revocation of certificate of**  
10 **organization or certificate of registration.** -- (a) The certificate of organization [or certificate of](#)  
11 [registration](#) of a limited liability company may be revoked by the secretary of state on the  
12 conditions prescribed in this section when it is established that:

- 13 (1) The limited liability company procured its articles of organization through fraud;
- 14 (2) The limited liability company has continued to exceed or abuse the authority  
15 conferred upon it by law;
- 16 (3) The limited liability company has failed to file its annual report within the time  
17 required by this chapter, or has failed to pay any fees or taxes due this state, when they have  
18 become due and payable;
- 19 (4) The limited liability company has failed for thirty (30) days to appoint and maintain a  
20 resident agent in this state as required by this chapter;
- 21 (5) The limited liability company has failed, after change of its resident agent, to file in  
22 the office of the secretary of state a statement of the change as required by this chapter;
- 23 (6) The limited liability company has failed to file in the office of the secretary of state  
24 any amendment to its articles of organization [or certificate of registration](#) or any articles of  
25 dissolution, [cancellation of registration](#), merger or consolidation as prescribed by this chapter; or
- 26 (7) A misrepresentation has been made of any material matter in any application, report,  
27 affidavit, or other document submitted by the limited liability company pursuant to this chapter.

28 (b) No certificate of organization [or certificate of registration](#) of a limited liability  
29 company shall be revoked by the secretary of state unless:

- 30 (1) The secretary of state shall have given the limited liability company not less than  
31 sixty (60) days notice thereof by regular mail addressed to the resident agent in this state on file  
32 with the secretary of state's office; provided, however, that if a prior mailing addressed to the  
33 address of the resident agent of the limited liability company in this state currently on file with  
34 the secretary of state's office has been returned to the secretary of state as undeliverable by the

1 United States Postal Service for any reason, or if the revocation notice is returned as  
2 undeliverable to the secretary of state's office by the United States Postal Service for any reason,  
3 the secretary of state shall give notice as follows:

4 (i) To the limited liability company, domestic or foreign, at its principal office of record  
5 as shown in its most recent annual report, and no further notice shall be required; or

6 (ii) In the case of a limited liability company which has not yet filed an annual report,  
7 then to the domestic limited liability company at the principal office in the articles of organization  
8 or to the authorized person listed on the articles of organization, or to the foreign limited liability  
9 company at the office required to be maintained by the limited liability company in its state of  
10 organization, and no further notice shall be required; and

11 (2) The limited liability company fails prior to revocation to file the annual report, pay  
12 the fees or taxes, file the required statement of change of resident agent, file the articles of  
13 amendment [or amendment to its registration](#) or articles of dissolution, [cancellation of registration](#),  
14 merger or consolidation, or correct the misrepresentation.

15 **7-16-42. Issuance of certificates of revocation.** -- (a) Upon revoking any such certificate  
16 of organization [or certificate of registration](#) of the limited liability company, the secretary of state  
17 shall:

18 (1) Issue a certificate of revocation in duplicate;

19 (2) File one of the certificate in the secretary of state's office;

20 (3) Send to the limited liability company by regular mail a certificate of revocation,  
21 addressed to the resident agent of the limited liability company in this state on file with the  
22 secretary of state's office; provided, however, that if a prior mailing addressed to the address of  
23 the resident agent of the limited liability company in this state currently on file with the secretary  
24 of state's office has been returned to the secretary of state as undeliverable by the United States  
25 Postal Service for any reason, or if the revocation certificate is returned as undeliverable to the  
26 secretary of state's office by the United States Postal Service for any reason, the secretary of state  
27 shall give notice as follows:

28 (i) To the limited liability company, domestic or foreign, at its principal office of record  
29 as shown in its most recent annual report, and no further notice shall be required; or

30 (ii) In the case of a limited liability company which has not yet filed an annual report,  
31 then to the domestic limited liability company at the principal office in the articles of organization  
32 or to the authorized person listed on the articles of organization, or to the foreign limited liability  
33 company at the office required to be maintained by the limited liability company in its state of  
34 organization, and no further notice shall be required.

1 (b) Upon the issuance of the certificate of revocation, the authority of the limited liability  
2 company to transact business in this state ceases.

3 **7-16-43. Withdrawal of certificate of revocation.** -- (a) Within ten (10) years after  
4 issuing a certificate of revocation as provided in section 7-16-42, the secretary of state may  
5 withdraw the certificate of revocation and retroactively reinstate the limited liability company in  
6 good standing as if its certificate of organization [or certificate of registration](#) had not been  
7 revoked except as subsequently provided:

8 (1) On the filing by the limited liability company of the documents it had previously  
9 failed to file as set forth in subdivisions (3) -- (6) of section 7-16-41(a);

10 (2) On the payment by the limited liability company of a penalty in the amount of fifty  
11 dollars (\$50.00) ~~and an additional fifty dollars (\$50.00)~~ for each year or part of year that has  
12 elapsed since the issuance of the certificate of revocation ~~less the fifty dollars (\$50.00) paid under~~  
13 ~~the immediately preceding clause~~; and

14 (3) Upon the filing by the limited liability company of a certificate of good standing  
15 from the Rhode Island division of taxation.

16 (b) If, as permitted by the provisions of this chapter or chapters 1.2, 6, or 12, or 13 of this  
17 title, another limited liability company, business or nonprofit corporation, registered limited  
18 liability partnership or a limited partnership, or in each case domestic or foreign, authorized and  
19 qualified to transact business in this state, bears or has filed a fictitious business name statement  
20 as to or reserved or registered a name which is the same as, the name of the limited liability  
21 company with respect to which the certificate of revocation is proposed to be withdrawn, then the  
22 secretary of state shall condition the withdrawal of the certificate of revocation on the reinstated  
23 limited liability company's amending its articles of organization [or certificate of registration](#) so as  
24 to designate a name which is not the same as its former name.

25 **7-16-50. Issuance of registration of foreign limited liability company.** -- If the  
26 secretary of state accepts the application for filing under section 7-16-8, the secretary of state  
27 shall issue a certificate of registration to the foreign limited liability company. [Upon the issuance](#)  
28 [of a certificate of registration by the secretary of state, the company is authorized to transact](#)  
29 [business in this state, subject, however, to the right of this state to suspend or revoke the authority](#)  
30 [as provided in this chapter.](#)

31 SECTION 2. Chapter 7-16 of the General Laws entitled "The Rhode Island Limited  
32 Liability Company Act" is hereby amended by adding thereto the following section:

33 **7-16-52.1. Foreign application for transfer of authority.** -- [\(a\) A duly authorized](#)  
34 [foreign limited liability company in the state of Rhode Island that converts into any other form of](#)

1 foreign entity subject to the provisions of title 7 and the resulting entity is required to file for  
2 authority to transact business in this state may apply for a transfer of authority in the office of the  
3 secretary of state by filing:

4 (1) An application of transfer of authority that has been executed and filed in accordance  
5 with section 7-16-8;

6 (2) An application for authority to transact business in the state of Rhode Island for the  
7 resulting entity type; and

8 (3) A certificate of legal existence or good standing issued by the proper officer of the  
9 state or country under the laws of which the resulting entity has been formed.

10 (b) The application for transfer of authority shall state:

11 (1) The name of the limited liability company;

12 (2) The type of other entity into which it has been converted; and

13 (3) The jurisdiction whose laws govern its internal affairs.

14 (c) Upon the effective time and date of the application for transfer of authority, the  
15 authority of the limited liability company authorized to transact business under this chapter shall  
16 be transferred without interruption to the other entity which shall thereafter hold such authority  
17 subject to the provisions of the Rhode Island general laws which apply to that type of resulting  
18 entity.

19 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO CORPORATIONS, ASSOCIATIONS AND PARTNERSHIPS -- THE RHODE  
ISLAND LIMITED LIABILITY COMPANY ACT

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1           This act would amend certain provisions relative to the secretary of state filing  
2 procedures for documents received pursuant to this chapter dealing with corporations,  
3 associations and partnerships.

4           This act would take effect upon passage.

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