

HOUSE No. 322

The Commonwealth of Massachusetts

PRESENTED BY:

Tom Sannicandro

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to meeting 21st century business needs.

PETITION OF:

NAME:

Tom Sannicandro

DISTRICT/ADDRESS:

7th Middlesex

HOUSE No. 322

By Mr. Sannicandro of Ashland, a petition (accompanied by bill, House, No. 322) of Tom Sannicandro for legislation to allow limited liability company documents to be stored electronically and eliminating the requirement for such companies to maintain a physical location in the Commonwealth. Economic Development and Emerging Technologies.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to meeting 21st century business needs.

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 2 of chapter 156C of the General Laws is hereby amended by
2 inserting after subsection (3), the following 3 subsections:-

3 (3A) “Deliver” or “delivery”, any method of delivery used in conventional commercial
4 practice, including delivery by hand, mail, commercial delivery, and electronic transmission.

5 (3B) “Document”, information that is inscribed on a tangible medium or that is stored in
6 an electronic or other medium and is retrievable in perceivable form.

7 (3C) “Electronic transmission” or “electronically transmitted”, a process of
8 communication not directly involving the physical transfer of paper that is suitable for the
9 retention, retrieval, and reproduction of information by the recipient.

10 SECTION 2. Said section 2 of said chapter 156C is hereby further amended by inserting
11 after subsection (7) the following subsection:-

12 (7A) “Meeting”, any structured communications conducted by participants in person or
13 through the use of electronic or telecommunications medium permitting simultaneous or
14 sequentially structured communications for the purpose of reaching a collective agreement.

15 SECTION 3. Said section 2 of said chapter 156C is hereby further amended by inserting
16 after subsection (8) the following subsection:-

17 (8A) "Notice", communication of information, as required by this chapter, in person; by
18 telephone, voice mail, telegraph, teletype, facsimile, or other form of wire, wireless, or electronic
19 communication; or by mail or private carrier or other method of delivery. If these forms of
20 personal notice are impracticable, notice may be communicated by a newspaper of general
21 circulation in the area where published; or by radio, television, or other form of public broadcast
22 communication.

23 SECTION 4. Said section 2 of said chapter 156C is hereby further amended by striking
24 out subsection (9) in its entirety and replacing it with the following subsection:-

25 (9) "Operating agreement", any form of description of membership rights and obligations
26 stored or depicted in any tangible or electronic medium which is agreed to by the members,
27 including amendments to the agreement, as to the affairs of a limited liability company and the
28 conduct of its business.

29 SECTION 5. Said section 2 of said chapter 156C is hereby further amended by inserting
30 after subsection (10) the following subsection:-

31 (10A) "Sign" or "signature" includes any manual, facsimile, conformed, or electronic
32 signature.

33 SECTION 6. Said section 2 of said chapter 156C is hereby further amended by adding
34 the following 2 subsections:-

35 (12) "Virtual Corporation", an organization without a physical presence that may be
36 distributed geographically and whose work is coordinated through electronic communications.

37 (13) "Writing", written communications, including letters, faxes, e-mails, or other
38 electronic formats.

39 SECTION 7. Section 5 of said chapter 156C is hereby amended by striking out, in line 1,
40 the following words:- in the Commonwealth

41 SECTION 8. Said section 5 of said chapter 156C is hereby further amended by striking
42 out, in line 2, the following words:- "an office, which may but need not be a place of its business
43 in the commonwealth at which shall be kept"

44 SECTION 9. Section 9 of said chapter 156C, as so appearing, is hereby amended by
45 striking out the first paragraph and inserting in place thereof the following paragraph:-

46 Section 9. (a) Each limited liability company shall keep the following documents:

47 SECTION 10. Section 9 of said chapter 156C is hereby further amended by inserting the
48 following subsection:-

49 (d) A company may maintain its records in other than written form if such form is
50 capable of conversion into written form within a reasonable time or into an electronic form that
51 may be prescribed by the secretary of state.

52 SECTION 11. Section 11 of said chapter 156C is hereby amended by inserting after the
53 words “reports” the following word:- , writings

54 SECTION 12. Section 12 of said chapter 156C is hereby amended by striking out, in line
55 5, the words “required to be maintained by section (5)” and replacing them with the following:-

56 , if any

57 SECTION 13. Said Section 17 of said chapter 156C is hereby further amended by adding
58 the following subsection:-

59 (c) If the secretary of state has prescribed a mandatory form or electronic format for the
60 document pursuant to this section, the document must be in or on the prescribed form.

61 SECTION 14. Section 48 of said chapter 156C is hereby amended by inserting, in line
62 21, after the word “company” the following words:-

63 , if any

64 SECTION 15. Section 53 of said chapter 156C is hereby amended by inserting, in line
65 12, after the word “company” the following words:-

66 , if any

67 SECTION 16. Section 61 of said chapter 156C is hereby amended by striking out
68 subsection (5) in its entirety and replacing it with the following subsection:-

69 (5) that the agreement of consolidation or merger is on file with the resulting or surviving
70 domestic limited liability company, other business entity, or service agent as defined in
71 subsection 2 of section 5 of this chapter;

72 SECTION 17. Section 70 of said chapter 156C is hereby amended by striking out, in line
73 9, the words “required by clause (1) of section 5” and replacing them with the following:-

74 , if any, or, if no such address exists, the service agent as defined in subsection 2 of
75 section 5 of this chapter.

76 SECTION 18. The third sentence of section 72 of said chapter 156C is hereby amended
77 by inserting after the word “company” the following words:-

78 , if any, or, if no such address exists, the service agent as defined in subsection 2 of
79 section 5 of this chapter.