



General Assembly

February Session, 2012

Raised Bill No. 5073

LCO No. 443

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Referred to Committee on Banks

Introduced by:
(BA)

**AN ACT CONCERNING TECHNICAL REVISIONS TO CONNECTICUT'S
MODEL ENTITY TRANSACTIONS ACT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 33-819 of the 2012 supplement to
2 the general statutes, as amended by section 38 of public act 11-241, is
3 repealed and the following is substituted in lieu thereof (*Effective*
4 *January 1, 2014*):

5 (a) After a plan of merger or share exchange has been adopted and
6 approved as required by sections 33-600 to 33-998, inclusive, a
7 certificate of merger or share exchange shall be [executed] signed on
8 behalf of each party to the merger or the share exchange by any officer
9 or other duly authorized representative of such party. The certificate of
10 merger or share exchange shall set forth: (1) The names of the parties
11 to the merger or the share exchange; (2) the name of the corporation
12 that will be the survivor of the merger or that will acquire the shares of
13 the other party to the share exchange; (3) the date on which the merger
14 or the share exchange is to be effective; (4) if the certificate of
15 incorporation of the survivor of a merger is amended, or if a new
16 corporation is created as a result of a merger, the amendments to the

17 survivor's certificate of incorporation or the certificate of incorporation
18 of the new corporation; (5) if the plan of merger or share exchange
19 required approval by the shareholders of a domestic corporation that
20 was a party to the merger or the share exchange, a statement that the
21 plan was duly approved by the shareholders and, if voting by any
22 separate voting group was required, by each such separate voting
23 group, in the manner required by sections 33-600 to 33-998, inclusive,
24 and the certificate of incorporation; (6) if the plan of merger or share
25 exchange did not require approval by the shareholders of a domestic
26 corporation that was a party to the merger or the share exchange, a
27 statement to that effect; and (7) as to each foreign corporation that was
28 a party to the merger or the share exchange, a statement that the plan
29 and the performance of its terms were duly authorized by all action
30 required by the law of the state or country under which the
31 corporation is organized or by which it is governed, and by its
32 certificate of incorporation.

33 Sec. 2. Subsection (b) of section 34-193 of the 2012 supplement to the
34 general statutes, as amended by section 46 of public act 11-241, is
35 repealed and the following is substituted in lieu thereof (*Effective*
36 *January 1, 2014*):

37 (b) A limited liability company organized under sections 34-100 to
38 34-242, inclusive, to render professional services may merge or
39 consolidate only with another domestic limited liability company
40 organized under said sections if such other company is organized to
41 render the same professional service. A merger or consolidation of a
42 limited liability company organized under sections 34-100 to 34-242,
43 inclusive, to render professional services with any foreign limited
44 liability company or foreign other entity is prohibited.

45 Sec. 3. Subsection (b) of section 34-608 of the 2012 supplement to the
46 general statutes is repealed and the following is substituted in lieu
47 thereof (*Effective January 1, 2014*):

48 (b) This chapter shall not be used to effect a transaction that (1)

49 involves any entity referenced in subsection (a) of this section, [or] (2)
50 is a conversion, merger, consolidation, interest exchange, division or
51 any other transaction governed by this chapter between or among
52 entities of the same type, or (3) is a conversion, merger, consolidation,
53 interest exchange, division or other transaction governed by sections
54 34-600 to 34-646, inclusive, involving a domestic entity organized to
55 render professional services unless the transaction involves another
56 domestic entity organized to render the same professional service,
57 except as otherwise permitted by the laws of this state.

58 Sec. 4. Subsection (c) of section 34-621 of the 2012 supplement to the
59 general statutes is repealed and the following is substituted in lieu
60 thereof (*Effective January 1, 2014*):

61 (c) If a protected agreement contains a provision that applies to a
62 merger of a domestic entity but does not refer to an interest exchange,
63 such provision shall apply to an interest exchange in which the
64 domestic entity is the acquired entity as if the interest exchange were a
65 merger until such time after [October 1, 2011] January 1, 2014, as the
66 provision is amended.

67 Sec. 5. Subsection (c) of section 34-631 of the 2012 supplement to the
68 general statutes is repealed and the following is substituted in lieu
69 thereof (*Effective January 1, 2014*):

70 (c) If a protected agreement contains a provision that applies to a
71 merger of a domestic entity but does not refer to a conversion, such
72 provision shall apply to a conversion of the entity as if the conversion
73 were a merger until such time after [October 1, 2011] January 1, 2014,
74 as the provision is amended.

75 Sec. 6. Subsection (d) of section 34-641 of the 2012 supplement to the
76 general statutes is repealed and the following is substituted in lieu
77 thereof (*Effective January 1, 2014*):

78 (d) If a protected agreement contains a provision that applies to a

79 merger of a domestic entity but does not refer to a domestication, the
80 provision shall apply to a domestication of the entity as if the
81 domestication were a merger until such time after [October 1, 2011]
82 January 1, 2014, as the provision is amended.

83 Sec. 7. Subdivision (1) of section 22a-134 of the 2012 supplement to
84 the general statutes, as amended by section 53 of public act 11-241, is
85 repealed and the following is substituted in lieu thereof (*Effective*
86 *January 1, 2014*):

87 (1) "Transfer of establishment" means any transaction or proceeding
88 through which an establishment undergoes a change in ownership, but
89 does not mean:

90 (A) Conveyance or extinguishment of an easement;

91 (B) Conveyance of an establishment through a foreclosure, as
92 defined in subsection (b) of section 22a-452f, foreclosure of a municipal
93 tax lien or through a tax warrant sale pursuant to section 12-157, an
94 exercise of eminent domain pursuant to section 8-128, 8-169e or 8-193
95 or by condemnation pursuant to section 32-224 or purchase pursuant
96 to a resolution by the legislative body of a municipality authorizing the
97 acquisition through eminent domain for establishments that also meet
98 the definition of a brownfield, as defined in section 32-9kk, or a
99 subsequent transfer by such municipality that has foreclosed on the
100 property, foreclosed municipal tax liens or that has acquired title to the
101 property through section 12-157, or is within the pilot program
102 established in subsection (c) of section 32-9cc, or has acquired such
103 property through the exercise of eminent domain pursuant to section
104 8-128, 8-169e or 8-193 or by condemnation pursuant to section 32-224
105 or a resolution adopted in accordance with this subparagraph,
106 provided (i) the party acquiring the property from the municipality
107 did not establish, create or contribute to the contamination at the
108 establishment and is not affiliated with any person who established,
109 created or contributed to such contamination or with any person who
110 is or was an owner or certifying party for the establishment, and (ii) on

111 or before the date the party acquires the property from the
112 municipality, such party or municipality enters and subsequently
113 remains in the voluntary remediation program administered by the
114 commissioner pursuant to section 22a-133x and remains in compliance
115 with schedules and approvals issued by the commissioner. For
116 purposes of this subparagraph, subsequent transfer by a municipality
117 includes any transfer to, from or between a municipality, municipal
118 economic development agency or entity created or operating under
119 chapter 130 or 132, a nonprofit economic development corporation
120 formed to promote the common good, general welfare and economic
121 development of a municipality that is funded, either directly or
122 through in-kind services, in part by a municipality, or a nonstock
123 corporation or limited liability company controlled or established by a
124 municipality, municipal economic development agency or entity
125 created or operating under chapter 130 or 132;

126 (C) Conveyance of a deed in lieu of foreclosure to a lender, as
127 defined in and that qualifies for the secured lender exemption
128 pursuant to subsection (b) of section 22a-452f;

129 (D) Conveyance of a security interest, as defined in subdivision (7)
130 of subsection (b) of section 22a-452f;

131 (E) Termination of a lease and conveyance, assignment or execution
132 of a lease for a period less than ninety-nine years including
133 conveyance, assignment or execution of a lease with options or similar
134 terms that will extend the period of the leasehold to ninety-nine years,
135 or from the commencement of the leasehold, ninety-nine years,
136 including conveyance, assignment or execution of a lease with options
137 or similar terms that will extend the period of the leasehold to ninety-
138 nine years, or from the commencement of the leasehold;

139 (F) Any change in ownership approved by the Probate Court;

140 (G) Devolution of title to a surviving joint tenant, or to a trustee,
141 executor or administrator under the terms of a testamentary trust or

142 will, or by intestate succession;

143 (H) Corporate reorganization not substantially affecting the
144 ownership of the establishment;

145 (I) The issuance of stock or other securities of an entity which owns
146 or operates an establishment;

147 (J) The transfer of stock, securities or other ownership interests
148 representing less than forty per cent of the ownership of the entity that
149 owns or operates the establishment;

150 (K) Any conveyance of an interest in an establishment where the
151 transferor is the sibling, spouse, child, parent, grandparent, child of a
152 sibling or sibling of a parent of the transferee;

153 (L) Conveyance of an interest in an establishment to a trustee of an
154 inter vivos trust created by the transferor solely for the benefit of one
155 or more siblings, spouses, children, parents, grandchildren, children of
156 a sibling or siblings of a parent of the transferor;

157 (M) Any conveyance of a portion of a parcel upon which portion no
158 establishment is or has been located and upon which there has not
159 occurred a discharge, spillage, uncontrolled loss, seepage or filtration
160 of hazardous waste, provided either the area of such portion is not
161 greater than fifty per cent of the area of such parcel or written notice of
162 such proposed conveyance and an environmental condition
163 assessment form for such parcel is provided to the commissioner sixty
164 days prior to such conveyance;

165 (N) Conveyance of a service station, as defined in subdivision (5) of
166 this section;

167 (O) Any conveyance of an establishment which, prior to July 1, 1997,
168 had been developed solely for residential use and such use has not
169 changed;

170 (P) Any conveyance of an establishment to any entity created or
171 operating under chapter 130 or 132, or to an urban rehabilitation
172 agency, as defined in section 8-292, or to a municipality under section
173 32-224, or to the Connecticut Development Authority or any
174 subsidiary of the authority;

175 (Q) Any conveyance of a parcel in connection with the acquisition of
176 properties to effectuate the development of the overall project, as
177 defined in section 32-651;

178 (R) The conversion of a general or limited partnership to a limited
179 liability company;

180 [(R)] (S) The transfer of general partnership property held in the
181 names of all of its general partners to a general partnership which
182 includes as general partners immediately after the transfer all of the
183 same persons as were general partners immediately prior to the
184 transfer;

185 [(S)] (T) The transfer of general partnership property held in the
186 names of all of its general partners to a limited liability company
187 which includes as members immediately after the transfer all of the
188 same persons as were general partners immediately prior to the
189 transfer;

190 [(T)] (U) Acquisition of an establishment by any governmental or
191 quasi-governmental condemning authority;

192 [(U)] (V) Conveyance of any real property or business operation that
193 would qualify as an establishment solely as a result of (i) the
194 generation of more than one hundred kilograms of universal waste in
195 a calendar month, (ii) the storage, handling or transportation of
196 universal waste generated at a different location, or (iii) activities
197 undertaken at a universal waste transfer facility, provided any such
198 real property or business operation does not otherwise qualify as an
199 establishment; there has been no discharge, spillage, uncontrolled loss,

200 seepage or filtration of a universal waste or a constituent of universal
201 waste that is a hazardous substance at or from such real property or
202 business operation; and universal waste is not also recycled, treated,
203 except for treatment of a universal waste pursuant to 40 CFR
204 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or disposed of at
205 such real property or business operation; [or]

206 [(V)] (W) Conveyance of a unit in a residential common interest
207 community in accordance with section 22a-134i;

208 (X) Acquisition of an establishment that is in the abandoned
209 brownfield cleanup program established pursuant to section 32-9ll and
210 all subsequent transfers of the establishment, provided the
211 establishment is undergoing remediation or is remediated in
212 accordance with subsection (g) of said section 32-9ll;

213 (Y) Any transfer of title from a bankruptcy court or a municipality
214 to a nonprofit organization; or

215 (Z) Acquisition of an establishment that is in the brownfield
216 remediation and revitalization program and all subsequent transfers of
217 the establishment, provided the establishment is in compliance with
218 the brownfield investigation plan and remediation schedule, the
219 commissioner has issued a no audit letter or successful audit closure
220 letter in response to a verification or interim verification submitted
221 regarding the remediation of such establishment under the brownfield
222 remediation and revitalization program, or a one-hundred-eighty-day
223 period has expired since a verification or interim verification
224 submitted regarding the remediation of such establishment under the
225 brownfield remediation and revitalization program without an audit
226 decision from the Commissioner of Energy and Environmental
227 Protection.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>January 1, 2014</i>	33-819(a)
Sec. 2	<i>January 1, 2014</i>	34-193(b)
Sec. 3	<i>January 1, 2014</i>	34-608(b)
Sec. 4	<i>January 1, 2014</i>	34-621(c)
Sec. 5	<i>January 1, 2014</i>	34-631(c)
Sec. 6	<i>January 1, 2014</i>	34-641(d)
Sec. 7	<i>January 1, 2014</i>	22a-134(1)

Statement of Purpose:

To make technical revisions to Connecticut's Model Entity Transactions Act.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]