

April 9, 2004

## Changes in New Massachusetts Corporate Law

Massachusetts has a new Business Corporation Act that takes effect on July 1, 2004 (new Act). Existing corporations formed under the present Business Corporation Act (old Act) do not have to make changes to their articles of organization or bylaws to remain valid. However, if you are an officer, director or majority stockholder of a Massachusetts corporation, the new Act, which is the first restatement of the statute in 40 years, will likely offer several advantages. For example:

**Stockholder Voting** Stockholders can act by written consent of the majority. The old Act required unanimous consent.

**Number of Directors** No matter how many shareholders you have, you can now have only one director, which could help you to streamline your Board. The old Act required a minimum of two or three directors.

**Director Indemnification** The new Act may give you broader provisions for indemnification of officers and directors.

**Conflict of Interest** The new Act gives you more flexibility to engage in potentially conflicting transactions, such as dealing with related companies or realty trusts.

**Document Retention** The new Act describes the documents that must be retained; any inconsistent retention program may be illegal.

**Additional Options** The new Act allows you to:

- use electronic notices, waivers and consents;
- grant proxies for longer periods; and
- take more time for paying dividends.

It also allows greater flexibility in establishing classes and series of stock with differing rights, and in converting a corporation into another type of entity or changing its jurisdiction of organization.

### Duane Morris

#### Corporate Practice Group

In many areas, the new law requires your affirmative action in order for you to benefit. If you have a Massachusetts corporation, arrange now for your Duane Morris attorney or our Corporate Team to review your charter documents and take advantage of the new Act.

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