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Incorporating in Massachusetts: The Basics

By: Rich May, Claire Grace

Disclaimer: This summary is provided for educational and informational purposes only and is not legal advice. Any specific questions about these topics should be directed to attorney [Claire Grace](#). [Massachusetts General Laws, Chapter 156D](#), commonly referred to as the Massachusetts Business Corporation Act, governs business corporations and sets forth the process for forming a new corporation. This blog post covers the basics of incorporating in Massachusetts and some related considerations.

Filing Articles of Organization

To form a new corporation in Massachusetts, one or more incorporators must prepare, execute, and file with the secretary of state the new corporation's articles of organization. The incorporator(s) may specify in the articles of organization the date that the incorporation shall take effect, provided that such date is within the 90-day period following the date of filing. If an effective date is not specified, then the filing, if accepted, becomes effective when the articles are received by the secretary of state.

The articles of organization must state the corporation's name; the number and classes of shares authorized for issuance; and each incorporator's name and address. The filing must also include the following supplemental information (which is not considered a permanent part of the articles of organization): registered agent name and registered office address; names and addresses of the initial directors; names of addresses of the president, treasurer and secretary; the corporation's fiscal year; and any other information required by the secretary of state, such as a description of the corporation's business, the corporation's principal office address, and the address where the corporation's records are kept within Massachusetts. The articles of organization may include the corporation's purpose; provisions regarding management of the corporation or regulation of its affairs; the powers of the corporation, board of directors, and stockholders; par value for each class of stock; or other lawful provisions.

Bylaws

After incorporation, the new corporation will need to adopt its bylaws. Bylaws govern the corporation and may contain any provisions regarding management of the corporation or



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regulation of its affairs that are compatible with the articles of organization and any applicable laws. Oftentimes, bylaws will contain provisions regarding the corporation's stock; stockholder meetings and voting; the size and powers of the board of directors; officers; indemnification; and amendments to the bylaws.

Number of Directors

The corporation's articles of organization or bylaws set forth the size of the board of directors. The size can be an exact number or a variable range with a minimum and a maximum. A corporation with 1 stockholder must have at least 1 director, a corporation with 2 stockholders must have at least 2 directors, and a corporation with at least 3 stockholders must have at least 3 directors.

Initial Actions

The incorporator(s) may hold a meeting or act by written consent to elect the corporation's initial directors, and either the incorporator(s) or the initial directors may hold a meeting or act by written consent to adopt bylaws and to elect the corporation's president, treasurer, and secretary. Until any of the corporation's shares are issued, the incorporator(s) may take any actions that stockholders may take.

For assistance with forming new business entities, please contact the author of this post or any member of the Rich May team with whom you are currently working.