

## Massachusetts Bar Association Bylaws

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Approved by the MBA Membership:

### ARTICLE I -Name

Massachusetts Bar Association

### ARTICLE II -Purpose

To serve the legal profession and the public by promoting the administration of justice, legal education, professional excellence, diversity and unity in the legal profession and respect for the law.

### ARTICLE III -Diversity Statement

The Massachusetts Bar Association (the "Association") encourages diversity of gender, gender identity and expression, sexual orientation, race, color, creed, age, disability, ethnic origin and geographic representation in its membership, Officers, House of Delegates (the "HOD"), Executive Management Board (the "EMB"), Section Councils and Committees.

### ARTICLE IV -Membership

Section 1. Membership. Any member of the Bar of the Commonwealth of Massachusetts in good standing may become a member of the Association and only such members may vote, hold office in the Association, serve on the EMB, the HOD or on Section Councils. Other categories of membership may be established by the EMB. Any member of the Association, who has been admitted to the bar for fifty (50) years and is a current member of the Association in good standing, shall automatically become a life member of the Association and be exempt from paying annual dues.

Section 2. Dues. The dues for membership shall be determined annually by the EMB and shall be payable in September of each year or as otherwise determined by the EMB. Various categories of membership may be established, approved and revised by the EMB from time to time. For good cause, the Treasurer shall have the right to waive, cancel or partially remit any obligation for dues. Any member of the Association who fails to pay dues within a reasonable time may be dropped from membership by order of the President.

Section 3. Annual and Other Meetings. The Annual meeting of the members of the Association shall be called by a majority of the HOD, a majority of the EMB or the President. Except for special meetings called pursuant to Article VI Section 9, special meetings of the members of the Association may be called at any time either by a majority of the HOD, by a majority of the EMB, by

the President or, if requested in writing by no fewer than one hundred (100) members of the Association, by the Secretary.

Section 4. Place of Meetings. All meetings of the members of the Association shall be held at such place as is fixed by the President or, if the President shall not act, by the EMB and specified in the Notice of the meeting.

Section 5. Notice of Meetings. Notice of any meeting of the members of the Association shall be given in accordance with Article X, Section 13 at least twenty (20) days prior to the date of such meeting and by the Secretary or any other Officer of the Association.

Section 6. Quorum. At any meeting of the members of the Association, a quorum shall consist of no fewer than fifty (50) members of the Association who are entitled to vote. Fewer than a quorum may adjourn any meeting from time to time, and the meeting may be held as adjourned without further notice.

Section 7. Voting and Proxies. Members of the Association shall have the right to vote in accordance with the provisions of Article X Section 9 and hold office in the Association. A member of the Association may not vote by proxy.

#### ARTICLE V -House of Delegates

Section 1. Powers. All public policy and advocacy issues of the Association shall be managed by the HOD which shall be a representative body of the members that exercises all public policy making and advocacy powers of the Association, except as otherwise provided by law, the Articles of Organization or these Bylaws.

Section 2. Membership. The HOD, each member of which shall be a member of the Association, shall consist of the President, the President-Elect, the Vice President, the Treasurer, the Secretary, the two (2) most recent former Presidents of the Association who are willing and able to serve, eighteen (18) Regional Delegates elected by the membership from their respective regions as described in Section 3 below, seven (7) At-Large Delegates nominated by the Nominating Committee and elected by the HOD following the election of the HOD, as provided herein, the Chair of the Young Lawyers Division, the State Delegate to the House of Delegates of the American Bar Association, the President of the Massachusetts Bar Foundation, Inc. and the President or his or her designee (provided he or she shall be a member of this Association) from the following affiliated bar organizations: the County Bar Associations (for the purpose of these Bylaws, the Boston Bar Association shall be the Bar Association for Suffolk County), the Asian American Lawyers Association of Massachusetts, the Federal Bar Association - Massachusetts Chapter, the Justinian Bar Association, the Juvenile Bar Association, the Massachusetts Academy of Trial Attorneys, the Massachusetts Association of Criminal Defense Lawyers, the Massachusetts Association of Hispanic Attorneys, the Massachusetts Association of Women Lawyers, the Massachusetts Black Lawyers Association, the MassDLA Bar Association, the Massachusetts LGBTQ Bar Association, the Massachusetts Municipal Lawyers Association, the National Academy of Elder Law Attorneys - Massachusetts Chapter, the Real Estate Bar Association for Massachusetts, the South Asian Bar Association of Greater Boston, the Women's

Bar Association, a representative who is a member of this Association from each additional affiliated bar association approved by the EMB after the adoption of these Bylaws pursuant to Section 4 of this Article V, and a chair of each Section Council or his or her designee.

Section 3. Regional Delegates. The eighteen (18) Regional Delegates shall be elected pursuant to the procedures set forth in Article VI, Section 2 hereof by members of the Association entitled to vote from the ten regions as follows: Region 1 -Barnstable, Dukes and Nantucket -one (1) delegate; Region 2 -Plymouth -one (1) delegate; Region 3 Bristol -one (1) delegate; Region 4 - Berkshire, Franklin and Hampshire —one (1) delegate; Region 5 -Hampden -one (1) delegate; Region 6 -Essex -two (2) delegates; Region 7 -Middlesex -three (3) delegates; Region 8 -Norfolk -two (2) delegates; Region 9 -Suffolk -four (4) delegates; Region 10 -Worcester -two (2) delegates. A Regional Delegate must have his/her principal office within the region. No person shall serve as a Regional Delegate for more than three (3) consecutive years unless authorized by majority vote of the EMB, upon the recommendation of the President.

Section 4. Affiliated Bar Organizations. Any statewide voluntary bar association not listed in Section 2 above may apply to the EMB to become an Affiliated Bar Organization. In accordance with a written policy regarding the admission of bar associations, the EMB shall review each bar association's purpose, activities and membership to determine whether the bar association by its representation in the HOD shall enhance the fulfillment of the purposes of the Association and assist the Association in the furtherance of its policies and activities. The primary purpose of the bar association must be other than social in nature, and at least one-third (1/3) of its members must be members of the Association.

A determination of whether a bar association is to be initially admitted to the HOD and become an Affiliated Bar Organization will be made by the EMB following a review of all relevant information submitted by the bar association at the time of application and annually thereafter.

Any Affiliated Bar Organization which fails to meet these membership requirements during any given Association year will have a probationary period the following Association year to recover sufficiently its membership levels. If such Affiliated Bar Organization fails to meet the membership requirements in such following Association year, it will not be entitled to representation in the HOD. Recertification or decertification of any Affiliated Bar Organization shall be by action of the EMB upon a recommendation from the President.

Section 5. Tenure. The members of the HOD shall serve for terms commencing on September 1<sup>st</sup> of the Association year following their election or appointment, or upon their election or appointment if the same shall occur after September 1<sup>st</sup> of the Association year, and terminating on August 31<sup>st</sup> of that Association year, or upon the election of their successors if such election shall occur after the start of the next Association year. Any Delegate may resign by delivering his or her written resignation to the Association at its principal office or to the President or Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

Section 6. Removal. A Delegate, whether elected, appointed or serving as a representative of another Bar Association, may be removed from office with cause by a vote of the majority of the Delegates then

in office. A Delegate may be removed only after reasonable notice and opportunity to be heard before the HOD.

Section 7. Regular and Other Meetings. The HOD shall meet no fewer than three (3) times per year at such times and locations as may be designated by the President, or, if the President shall not so act, by a majority of the then duly elected Delegates. Other meetings of the HOD may be called at such times and locations as may be designated by the President, or, if the President shall not so act, by a majority of the then duly elected Delegates. Delegates may not vote by proxy.

Section 8. Notice of Meetings. Notice of regular HOD meetings shall be given in accordance with Article X Section 13 to all Delegates by the Secretary no fewer than seven (7) days before the meeting. Notice of other HOD meetings shall be given to all Delegates by the Secretary either in person or in accordance with Article X Section 13 no fewer than forty-eight (48) hours before the meeting. Such notice shall not preclude amendment of the agenda by majority vote of those in attendance at a duly noticed meeting. Notice need not be given to a Delegate if a written waiver of notice is executed by such Delegate before or after a meeting and is filed with the records of the meeting, or to any Delegate who attends the meeting without objecting prior thereto or at its commencement of the lack of notice to such Delegate.

Section 9. Quorum. At any meeting of the HOD, a quorum shall consist of no fewer than thirty (30) members of the HOD. Fewer than a quorum may adjourn any meeting from time to time, and the meeting may be held as adjourned without further notice.

Section 10. Action at a Meeting. At any meeting of the HOD at which a quorum is present, a majority of those present may take any action on behalf of the HOD, except to the extent that a larger number is required by law, the Articles of Organization or these Bylaws.

Section 11. Action Without a Meeting. Any action by the HOD may be taken without a meeting if a written consent by mail or electronic mail thereto is signed by a majority of the Delegates then in office and filed with the records of the meetings of the HOD. Such consent shall be treated as a vote of the HOD for all purposes.

Section 12. Amicus Issues. Because of the limited number of regularly scheduled HOD meetings each year and because of the need for timely responses to requests to file amicus briefs, the HOD may vote, if necessary, on recommendations from the Amicus Committee by mail, fax or electronic mail. The Amicus Committee shall submit a request for action to the President. The President shall forward this request to HOD members within three (3) days of its receipt. Thereafter, HOD members must vote on the proposal within five (5) days. In order for a HOD vote under this section to be valid, at least thirty (30) HOD members must vote. A majority of those voting must vote in favor of the Amicus Committee's proposal for it to pass.

## ARTICLE VI -Officers

Section 1. Enumeration. The Officers of the Association shall be a President, a President-Elect, a Vice President, a Secretary, and a Treasurer.

Section 2. Election. Except for the President, the Officers shall be nominated and determined, according to the Association's Nomination and Election Procedures.

Section 3. Tenure. The Officers shall serve for terms commencing on September 1<sup>st</sup> of the Association year following their election, or upon their election if the same shall occur after September 1<sup>st</sup> of the Association year, and terminating on August 31<sup>st</sup> of that Association year, or upon the election of their successors if such election shall occur after the start of the next Association year. Any Officer may resign by delivering his or her written resignation to the Association at its principal office or to the President or Secretary, and such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

Section 4. President. The President shall be the chief executive officer of the Association and, subject to the direction of the EMB, have general supervision and control of the business and Officers of the Association, chair all meetings of the HOD and the EMB and perform such other duties and have such other powers as may be designated from time to time by the EMB. The President shall hold meetings of the Officers from time to time, to discuss matters to be brought before the EMB and before the HOD. No person shall be eligible for reelection to the office of President. The President shall appoint all Section Council Chairs and members as well as those Standing and Special Committee Chairs and members whose term of office expires during the President's term of office. The President may remove and replace any Section Council or Committee Chair or member if he or she determines it to be in the Association's best interest.

Section 5. President-Elect. The President-Elect, in the absence of the President, shall perform the duties of the President, and such other duties as may be designated by the EMB or the President. The President-Elect shall automatically become President on September first of the Association year following that in which he or she was elected President-Elect. A person filling the unexpired term of President may, at the expiration thereof, continue as President for a full term. The President-Elect shall automatically become President whenever the HOD shall declare that office vacant by virtue of the death, resignation, disability or removal of the President.

Section 6. Vice-President. The Vice President shall perform such duties and has such powers as may be designated by the EMB or the President. No person shall serve as Vice President for more than two years.

Section 7. Treasurer. The Treasurer, subject to the direction of the EMB, shall have general charge of the financial affairs of the Association, cause to be kept accurate books of accounts of the affairs of the Association, serve as Chair of the Budget and Finance Committee, oversee the Association's finances, report on the Association's financial condition at a regularly scheduled meeting of the Association and from time to time to the HOD and the EMB, and perform such other duties as may be designated by the EMB or the President. The Treasurer shall cause the Association's financial records to be audited annually by a certified public accountant approved by the EMB and cause the certified accountant to present and report upon such audit to the Association's Budget and Finance Committee for its review and consideration within a reasonable time following the end of the Association's fiscal year. Thereafter, at the next regularly scheduled

meetings of the EMB and HOD, the Treasurer shall report upon completion of the audit.

Section 8. Secretary. The Secretary shall supervise and maintain the recording of actions taken by the Association, HOD and EMB, and cause notice of all meetings to be sent to those entitled to such notice, keep the seal of the Association, and perform such other duties as may be designated by the EMB or the President. In the absence of the Secretary, an Assistant Secretary, if one is chosen and present, otherwise a Temporary Secretary designated by the person presiding at a meeting of the HOD or the EMB shall perform the duties of the Secretary at such meeting. The Secretary shall serve as the Association's Clerk. No person shall serve as Secretary for more than two years.

Section 9. Removal. An Officer may be removed from office with cause by a vote of a majority of the Delegates then in office. An Officer may be removed only after reasonable notice and opportunity to be heard before the HOD.

## ARTICLE VII -Executive Management Board

Section 1. Members. There shall be an EMB which shall consist of the President, the President-Elect, the Vice President, the Treasurer, the Secretary, the two (2) most recent former Presidents of the Association who are willing and able to serve, nine (9) members elected by the HOD from nominations made by the President or Members of the HOD from the floor and four (4) members appointed by the President. The nine (9) members elected by the HOD must be Regional or At-Large Delegates. The four (4) members appointed by the President must be Regional Delegates, At-Large Delegates or Section Council Chairs.

Section 2. Powers. Except for those powers expressly reserved to the HOD, the business of the Association shall be managed by the EMB, which business shall include, but not be limited to, adopting, amending or approving all written internal practices and procedures of the Association; and the hiring, designation of title appropriate for the duties assigned to, review of performance of and, as necessary, termination of a Chief Operating Officer ("COO"). The EMB may direct that the COO act as legal counsel to the Association, hire in-house legal counsel, retain outside counsel, or a combination of these as necessary to advise and represent the Association and may assign to the COO such other duties as it deems appropriate.

The COO shall be responsible for managing the day to day affairs of the Association and the hiring and termination of all other professional and administrative staff, all of whom shall report to the COO in accordance with procedures approved by the EMB. The COO shall perform any other duties as assigned by the President or the EMB as deemed appropriate and shall report to the President in his or her capacity as Chair of the EMB.

Section 3. Tenure. The nine (9) EMB members elected by the HOD shall each serve for terms of three (3) years, no such member to serve for more than two (2) consecutive terms as a member elected by the HOD. The term of any such elected member shall not terminate upon his or her failure to be re-elected to the HOD as a Regional or At-Large Delegate. Nothing in this Section precludes any member from serving additional consecutive years on the EMB either as a presidential appointment or as an officer. Members of the EMB shall serve from the first day

following their election or appointment and their term of office shall terminate on August 31<sup>st</sup> of that Association year or upon the election of their successors, if such election shall occur after the start of the next Association year. Any member of the EMB may resign by delivering his or her written resignation to the Association at its principal office or to the President or Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event. Any member who resigns from the EMB must also resign from each office held by such Delegate in the Massachusetts Bar Institute Inc.

Section 4. Election. With the exception of the initial election by the HOD of the nine (9) members identified in Section 1 herein, all subsequent elections shall be governed by the Association's Nominations and Election Procedures. The initial election of such nine (9) members shall occur in the Association year after approval of this Article in accordance with Article XI herein, three (3) such members to serve for one (1) year; three (3) to serve for two (2) years, and three (3) to serve for three (3) years. Those members initially elected for one (1) or two (2) year terms shall not be precluded from serving two (2) additional full terms of three (3) years, if so elected.

Section 5. Meetings. Regular meetings of the EMB shall occur no fewer than eight (8) times per year, at such times and at such places as may be designated by the President or, if the President shall not so act, by a majority of the then duly appointed and elected EMB members. Notice of such meetings shall be given to each EMB member in accordance with Article X, Section 13 at least seven (7) days in advance of each regular meeting. Special meetings of the EMB may be called by the President or by a majority of the then duly appointed and elected EMB members upon twenty-four (24) hours notice. No EMB member may vote by proxy. The EMB may vote to limit who may be present during its meetings.

Section 6. Quorum. A quorum of the EMB shall consist of no fewer than one half (1/2) of the then duly appointed and elected members of the EMB. Fewer than a quorum may adjourn any meeting from time to time, and the meeting may be held as adjourned without any notice. One (1) or more EMB members may participate in a meeting by means of telephone conference or similar communications equipment by means of which all persons participating in the meeting can communicate with each other at the same time. Participation in the meeting pursuant to the foregoing sentence shall constitute the presence of an EMB member at such meeting.

## ARTICLE VIII -Committees

Section 1. Nominating Committee. The Nominating Committee shall consist of seven (7) members of the Association, of which five (5) are appointed by the President and two (2) are appointed by the EMB. On or before the third Friday in January each year, the President shall appoint five (5) members of the Association to the Nominating Committee. The President shall appoint the immediate past president, who shall act as chair, the two (2) most recent former Presidents of the Association who are willing and able to serve, one (1) member of the Association who has recently served on the HOD and one (1) member of the Association who has not served on the HOD within the past five (5) years. On or before the third Friday in January each year, the EMB, by majority vote, shall appoint one (1) member of the Association who has recently served on the HOD and one (1) member of the Association who has not served on the HOD within the past five

(5) years. In accordance with the Nomination and Election Procedures, the Nominating Committee shall file with the Secretary one (1) or more nominations for President-Elect, one (1) or more nominations for Vice President, one (1) or more nominations for Treasurer, one (1) or more nominations for Secretary and one (1) or more nominations for each Regional Delegate. The President shall appoint a replacement for any person who was appointed by the President and chooses not to serve. The EMB shall appoint a replacement for any person who was appointed by the EMB and chooses not to serve.

The Nominating Committee may not nominate one of its own members to any office nor may a member be nominated or run as a petition candidate during the entire Association year of his or her service.

The Nominating Committee's report, together with copies of this Article VIII and the Nomination and Election Procedures, shall be sent electronically to all members of the Association entitled to vote. Any member unable or unwilling to receive the Nominating Committee's report, together with copies of this Article VIII and the Nomination and Election Procedures electronically shall notify the Secretary in writing prior to the third Friday in January and request the materials by first class mail.

In accordance with the Nomination and Election Procedures, other nominations may be made for Officers by a petition signed by at least one hundred (100) members of the Association entitled to vote for Officers, and for Regional Delegates by a petition signed by at least fifty (50) members of the Association entitled to vote from the region. A member's region shall be where he or she maintains his or her principal office. Following the election of the HOD, the Nominating Committee shall reconvene to nominate seven (7) individuals as At-Large Delegates. Such nominations shall be presented to and elected by the HOD.

Section 2. Amicus Curiae Committee. There shall be an Amicus Curiae Committee which shall consist of: the Chief Legal Counsel; a representative from each of the following section councils to be chosen by Section Council Chairs annually; Access to Justice, Business Law, Civil Litigation, Civil Rights and Social Justice, Complex Commercial Litigation, Criminal Justice, Dispute Resolution, Family Law, Health Law, Judicial Administration, Juvenile and Child Welfare, Labor and Employment, Probate Law, Public Law, Real Estate Law, Taxation Law, Workers' Compensation Law; the President-Elect; a representative from the Appellate Bench Bar Committee chosen each year by the President; and two (2) members appointed each year by the President for two (2) year terms. The Committee will operate in accordance with the MBA Amicus Curiae Brief Policy as adopted by and as amended from time to time by the HOD.

Section 3. Audit Committee. There shall be an Audit Committee which shall consist of three (3) members of the Association, none of whom shall be members of the EMB or the Budget and Finance Committee. Initially, the President shall appoint one (1) member to serve for one (1) year, one (1) member to serve for two (2) years and one (1) member to serve for three (3) years. Thereafter, the President shall appoint a member of the Audit Committee annually for a three (3) year term. The Audit Committee will operate in accordance with the MBA Audit Committee Policies and Procedures, as adopted by and as amended from time to time by the EMB.

Section 4. Budget and Finance Committee. There shall be a Budget and Finance Committee



which shall consist of the Officers and eight (8) members of the Association. Initially, the President shall appoint four (4) members to serve for one (1) year and four (4) members to serve for two (2) years. Thereafter, the president shall appoint four (4) members of the Budget and Finance Committee annually for two (2) year terms. The Treasurer shall be the Chairperson of the Budget and Finance Committee.

Section 5. Other Committees and Task Forces. There shall be other committees and task forces as may be created from time to time and with such duties as shall be prescribed by the HOD, the EMB or the President. The terms of the committee appointments shall expire at the end of the President's term of office. Exceptions to these tenure limitations are the Ethics Committee, the Massachusetts Law Review, the Insurance Committee and such other committees and task forces as the President may determine from time to time.

Section 6. Appointment. Except as otherwise provided by these Bylaws, the President may appoint any person (except that all lawyer members of committees shall be members of the Association) to serve as a voting member of any committee, except that unless authorized by majority vote of the EMB upon the recommendation of the President no person may serve as chair of the same committee for more than two (2) years, nor as a voting member for more than four (4) successive years, but may be reappointed after a lapse of two (2) years. A person's years of service as a member and as chair of a committee shall be computed independently.

Section 7. Ex Officio Committee Members. Except for the Nominating Committee and Audit Committee, the President and the President-Elect shall be ex officio voting members of each committee.

Section 8. Reports. At the request of the President, each committee, except for the Nominating Committee, shall report to the HOD or EMB.

## ARTICLE IX -Sections

Section 1. Establishment of Sections. The HOD may establish, combine, regulate or discontinue such Sections as it deems to be in the Association's best interest.

Section 2. Appointment. Each Section Council shall consist of fifteen (15) members. The President may appoint any member of the Association to serve as a voting member or chair of any Section Council. No member of the Association may serve simultaneously on more than one Section Council.

Section 3. Tenure. Members of each Section Council shall be appointed for one (1) year terms and will serve through August 31st of the Association year for which they were appointed, or until their successors are appointed, whichever is later. No person may serve as chair of the same Section Council for more than two (2) years, nor as a voting member for more than three (3) successive years, but may be reappointed after a lapse of two (2) years. A person's years of service as a member and as chair of a Section Council shall be computed independently. Said terms shall apply, unless extension of same are authorized by a majority vote of the EMB upon the recommendation of the President.

Section 4. Dues. The dues for each Section shall be established annually by the EMB.

#### ARTICLE X -Miscellaneous

Section 1. Fiscal Year. The fiscal year of the Association (also referred to herein as the "Association Year") shall commence September 1st of each year and end August 31st of the following year.

Section 2. Execution of Instruments. All deeds, leases, transfers, contracts, bonds, notes and other obligations authorized to be executed by an Officer of the Association on its behalf shall be signed by the President, Treasurer or COO, except as the EMB may generally or in particular cases otherwise determine.

Section 3. Voting of Beneficial Interests. Except as the EMB may otherwise designate, the President or Treasurer may waive notice of and act on behalf of the Association, or appoint any person or persons to act as proxy or attorney in fact for this Association (with or without discretionary power and/or power of substitution) at any meeting of members or beneficial owners of any other corporation or organization, any of the direct or indirect beneficial interests of which may be held by the Association.

Section 4. Corporate Records. The original, or attested copies, of the Articles of Organization, these Bylaws, and records of all meetings of the Incorporators and members of the Association, which shall contain the names and the record addresses of all members of the Association, Delegates and Officers, shall be kept in Massachusetts at the principal office of the Association. They shall be available at all reasonable times for the inspection of any member of the Association, Delegate or Officer for any proper purpose but not to secure a list or other information for the purpose of selling said list or information or copies thereof or of using the same for a purpose other than in the interest of the applicant, as a member of the Association, Delegate or Officer, relative to the affairs of the Association. Except as may be otherwise required by law, by the Articles of Organization, or by these Bylaws, the Association shall be entitled to treat the record address of a member of the Association, Delegate or Officer as shown on its books as the address of such person for all purposes, including the giving of any notices; and it shall be the duty of each such person to notify the Association of his or her latest post office address.

Section 5. Power to Contract with the Association. In the absence of fraud, no contract or other transaction between the Association and one or more members of the Association, Delegates, or Officers, or between the Association and any other corporation or other organization in which one or more members of the Association, Delegates, or Officers are stockholders, delegates, or Officers, or otherwise interested shall in any way be affected or invalidated, even though the vote or action of the members of the Association, Delegates, or Officers having such interests (even if adverse) may have been necessary to obligate the Association upon such contract or transaction; provided, however, the nature of such interest (though not necessarily the extent or details thereof) shall be disclosed to the EMB at a meeting of that board; and no member of the Association, Delegate, or Officer having such interest (even if adverse) shall be liable to the Association, or to any creditor thereof, or to any other person for any loss incurred by it under or

by reason of such contract or transaction, nor shall any such member of the Association, Delegate, or Officer be accountable for gains or profits realized thereon, or be disqualified from serving or continuing to serve as a member of the Association, Delegate or Officer thereof, if the notice required herein has been given. Any member of the Association, Delegate, or Officer in any way interested in any contract or transaction described in the foregoing sentence shall be deemed to have satisfied any requirement for disclosure thereof to the EMB if he or she gives to the EMB at a meeting of that board the notice required herein.

Notwithstanding the foregoing, the authority granted in this Article X, Section 5, shall not be exercised if the effect thereof would be to cause the loss of the tax-exempt status of the Association under the Internal Revenue Code of 1986, as amended from time to time, or to subject the Association, its members, Delegates, Officers or agents to any penalty or fine under said Code or under any other applicable law as a result of such exercise, it being the purpose of this Article X, Section 5, to allow only such transactions by the Association as are not prohibited by said Code or said other applicable law.

Section 6. Evidence of Authority. A certificate by the Secretary, acting in his or her capacity as Clerk, as to any action taken by the members, Delegates, or any Officer or representative of the Association shall, as to all who rely thereon in good faith, be conclusive evidence of such action.

Section 7. Ratification. Any action taken on behalf of the Association by a member of the Association, Delegate or any Officer or representative of the Association which requires authorization by the members or by the HOD or EMB shall be deemed to have been duly authorized if subsequently ratified by the members, if action by them was necessary for authorization, or by the HOD or EMB, if action by it was necessary for authorization.

Section 8. Vacancies. With the sole exception of the President, in the event of the death, resignation, disability or removal of any Officer or member of the EMB or HOD, the HOD shall vote to appoint a successor to fill such office for its unexpired term.

Section 9. Voting. For purposes of these Bylaws, unless otherwise provided by law, the Articles of Organization or in another section of these Bylaws, the term "Majority" or "Majority Vote" shall mean a simple majority of those attending the meeting at which a quorum is present.

Section 10. Conduct at Meetings. To the extent not inconsistent with these Bylaws, all meetings of the members of the Association, the HOD and EMB shall be conducted in accordance with the current version of *Robert's Rules of Order*.

Section 11. Authority. Except by specific authority from the HOD, no committee, task force, section council or any of its committees or practice groups shall represent the Association or issue any report or record on any public policy or advocacy issues. Except by specific authority from EMB, no committee, task force, section council or any of its committees or practice groups shall represent the Association or issue any report or record on any other matter.

Section 12. Governance. Each committee, task force or section council shall in all respects be governed by the general policies and procedures set forth in the MBA Policy and Procedure Manual, as it may from time to time be amended by the EMB.

Section 13. Notice. For the purpose of these Bylaws, unless otherwise provided in another section of these Bylaws, notice may be sent by electronic mail to those being noticed who have previously expressed a preference to receive notice in that manner and by mail to all others. All meeting notices shall include the date, time, location and agenda of the meeting. Notice of the annual meeting of the Association or of any other meeting of the membership may be given by publication in the e Journal or other regular publication of the Association which is sent to the members supplemented by electronic mail.

#### ARTICLE XI -Amendments of Bylaws

Bylaw amendments first approved by the HOD shall be ratified by a two-thirds (2/3) majority of the votes cast by the members of the Association either at a meeting of members of the Association duly called for such purpose at which a quorum is present or by written ballot forwarded to all members of the Association in accordance with the procedures in Article IV, Section 5 hereof. Any such ballot shall describe the Bylaw amendment approved by the HOD.

#### ARTICLE XII -Indemnification

In addition to any other rights to which any such person may be entitled by contract or otherwise under law, and subject to any applicable law, the Association shall indemnify, defend and save harmless any person and his or her heirs, executors and administrators against any cost, expense (including attorney's fees and amounts paid in settlement), fine, penalty, judgment or liability reasonably incurred by or imposed upon such person in connection with any action, suit or proceeding, civil or criminal, to which such person may be made a party or with which such person shall be threatened, by reason of such person being or having been a member of the HOD or EMB, officer or employee of the Association, serving or having served in any such capacity in any other organization at the request of the Association, or at the request of the Association serving or having served as a fiduciary or trustee of an employee benefits of the Association, unless with respect to any matter such person shall have been adjudicated in any proceeding not to have acted in good faith in the reasonable belief that his or her action was in the best interests of the Association or to the extent the matter relates to service with an employee benefit plan, in the best interest of the participants or beneficiaries of such employee benefit plan. Such indemnification may include payment by this Association of expenses incurred in defending a civil or criminal action or proceeding in advance of the final disposition of such action or proceeding upon receipt of an undertaking by the person to be indemnified to repay such payment if he or she shall be not entitled to indemnification under this paragraph.

Indemnification is deemed authorized by the Association under this Article if approved by a majority vote of a quorum of the members of the EMB and the action is taken in reliance upon the written opinion of independent legal counsel (who may be counsel to the Association) appointed for the purpose by majority vote of the members of the EMB or, if all members of the EMB are parties to the proceedings, appointed by a majority of the full EMB.