

KEATING CAPITAL INC

FORM 8-K (Current report filing)

Filed 05/25/10 for the Period Ending 05/21/10

Address	5251 DTC PARKWAY SUITE 1000 GREENWOOD VILLAGE, CO 80111
Telephone	720-889-0139
CIK	0001444706
Fiscal Year	12/31

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 8-K

Current Report Pursuant to Section 13 or 15(d) of
the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported):

May 25, 2010 (May 21, 2010)

KEATING CAPITAL, INC.

(Exact name of registrant as specified in its charter)

Maryland

(State or other jurisdiction of incorporation)

000-53504

(Commission File Number)

26-2582882

(I.R.S. Employer Identification No.)

5251 DTC Parkway, Suite 1000

Greenwood Village, CO 80111

(Address of principal executive offices and zip code)

Registrant's telephone number, including area code: **(720) 889-0139**

Check the appropriate box below if the Form 8-K is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

On May 21, 2010, Keating Capital, Inc. (the “Company”) held its Annual Meeting of Stockholders where the stockholders of the Company approved certain amendments to the Company’s Amended and Restated Articles of Incorporation (the “Charter”). The amendments were as follows:

1. An amendment to the Company’s Charter to specify that one of the lawful activities in which the Company may engage includes conducting and carrying on the business of a business development company under the 1940 Act;
2. An amendment to the Company’s Charter to declassify the Board of Directors and require that all directors stand for election annually beginning with the 2011 Annual Meeting of Stockholders; and
3. An amendment to the Company’s Charter to allow stockholders to remove a director for cause by the affirmative vote of the holders of a majority of the shares of stock outstanding and entitled to vote thereon.

A copy of the Articles of Amendment is attached hereto as Exhibit 3.1 and is incorporated herein by reference.

Item 5.07 Submission of Matters to a Vote of Security Holders.

On April 28, 2010, the Company filed a Definitive Proxy Statement on Schedule 14A (the “Proxy Statement”) with the Securities and Exchange Commission (the “Commission”) relating to the Annual Meeting of Stockholders to be held on May 21, 2010 (“Annual Meeting”). The Proxy Statement described in detail the five proposals presented to the Company’s stockholders at the Annual Meeting. The Board of Directors fixed the close of business on April 15, 2010 as the record date (the “Record Date”) for identifying those stockholders entitled to notice of, and to vote at, the Annual Meeting. A total of 914,515.136 shares of common stock were entitled to vote at the Annual Meeting

On May 21, 2010, the Company held its Annual Meeting of Stockholders at the Company’s corporate headquarters. All five proposals presented to the stockholders at the Annual Meeting were approved. The final voting results for each of the five proposals were as follows:

Proposal 1 - The Company’s stockholders elected two directors to serve three-year terms or until their respective successors are duly elected and qualified. The tabulation of votes was:

<u>Name</u>	<u>Votes For</u>	<u>Votes Withheld</u>	<u>Broker Non-Votes</u>
J. Taylor Simonton	541,763	0	0
William F. Owens	541,763	0	0

Proposal 2 - The Company's stockholders ratified the appointment of Grant Thornton LLP as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2010.

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstain</u>
541,763	0	0

Proposal 3 - The Company's stockholders approved an amendment to the Company's Charter to specify that one of the lawful activities in which the Company may engage includes conducting and carrying on the business of a business development company under the 1940 Act.

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstain</u>
541,763	0	0

Proposal 4 - The Company's stockholders approved an amendment to the Company's Charter to declassify the Board of Directors and require that all directors stand for election annually beginning with the 2011 Annual Meeting of Stockholders.

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstain</u>
541,763	0	0

Proposal 5 - The Company's stockholders approved an amendment to the Company's Charter to allow stockholders to remove a director for cause by the affirmative vote of the holders of a majority of the shares of stock outstanding and entitled to vote thereon.

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstain</u>
541,763	0	0

Item 9.01 Financial Statements and Exhibits.

- (a) Not applicable.
- (b) Not applicable.
- (c) Not applicable.
- (d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
3.1	Articles of Amendment to the Amended and Restated Articles of Incorporation

KEATING CAPITAL, INC.**ARTICLES OF AMENDMENT**

Keating Capital, Inc., a Maryland corporation (the “*Company*”), having its principal office in the State of Maryland, hereby certifies to the State Department of Assessments and Taxation of Maryland (the “*Department*”) that:

FIRST: The Company desires to, and does hereby, amend its charter (the “*Charter*”) as currently in effect as hereafter set forth.

SECOND: The Charter is hereby amended by deleting the existing Article II in its entirety and substituting in lieu thereof a new Article II which reads as follows:

ARTICLE II**PURPOSE**

The purpose for which the Company is formed is to engage in any lawful act or activity for which corporations may be organized under the general laws of the State of Maryland as now or hereafter in force, including conducting and carrying on the business of a business development company, subject to making an election therefor under the Investment Company Act of 1940, as amended (the “Investment Company Act”). In the event an election to be regulated as a business development company under the Investment Company Act has been made and is continuing, the Company may only change the nature of its business so as to cease to be, or to withdraw its election as, a business development company, if such change or election is authorized by the vote of a majority of the outstanding voting securities as defined under the Investment Company Act.

THIRD: The Charter is hereby amended by deleting the existing Section 4.1 of Article IV in its entirety and substituting in lieu thereof a new Section 4.1 of Article IV which reads as follows:

Section 4.1 Number, Vacancies and Classification of Directors. The business and affairs of the Company shall be managed under the direction of the Board of Directors. The number of Directors of the Company initially shall be one, which number may be increased or decreased only by the Board of Directors pursuant to the Bylaws, but shall never be less than the minimum number required by the Maryland General Corporation Law (the “*MGCL*”). The name of the initial director who shall serve until the first annual meeting of stockholders and until his successor is duly elected and qualifies is Timothy J. Keating.

A majority of the Board of Directors shall be Independent Directors, except for a period of up to 60 days after the death, removal or resignation of an Independent Director pending the election of such Independent Director’s successor. A Director is considered independent if he is not an “interested person” as that term is defined under Section 2(a)(19) of the Investment Company Act.

The Company elects, at such time as the Company becomes eligible to make an election provided for under Section 3-802(b) of the MGCL, that, subject to applicable requirements of the Investment Company Act and except as may be provided by the Board of Directors in setting the terms of any class or series of Preferred Stock (as hereinafter defined), any and all vacancies on the Board of Directors may be filled only by the affirmative vote of a majority of the remaining Directors in office, even if the remaining Directors do not constitute a quorum, and any Director elected to fill a vacancy shall serve for the remainder of the full term of the directorship in which such vacancy occurred and until a successor is duly elected and qualifies.

At each annual meeting of the stockholders after these Articles of Amendment become effective, each Director’s term will expire, and each Director shall be elected to hold office for a term expiring at the next annual meeting of stockholders and until their successors are duly elected and qualify. Directors may be elected to an unlimited number of successive terms.

FOURTH: The Charter is hereby amended by deleting the existing Section 4.9 of Article IV in its entirety and substituting in lieu thereof a new Section 4.9 of Article IV which reads as follows:

Section 4.9 Removal of Directors. Subject to the rights of holders of one or more classes or series of Preferred Stock to elect or remove one or more Directors, any Director, or the entire Board of Directors, may be removed from office at any time only for cause and only by the affirmative vote of the holders of a majority of the votes entitled to be cast generally in the election of Directors. For the purpose of this paragraph, "cause" shall mean, with respect to any particular Director: (a) conviction of a felony or a final judgment of a court of competent jurisdiction holding that such Director caused demonstrable, material harm to the Company through bad faith or active and deliberate dishonesty, (b) conviction of a felony or misdemeanor involving the purchase or sale of securities; and (c) by reason of any misconduct, the permanent or temporary enjoinder by court order or judgment from participating in any activity involving the purchase or sale of securities.

FIFTH: The amendments to the Charter as set forth above have been approved by the Board of Directors of the Company and by the stockholders of the Company in accordance with the requirements of the Maryland General Corporation Law and the Company's Charter.

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IN WITNESS WHEREOF, the Company has caused these Articles of Amendment to be signed in its name and on its behalf by its Chief Executive Officer and attested by its Corporate Secretary on May 21, 2010.

KEATING CAPITAL, INC.

Attest: /s/ Kyle L. Rogers
Kyle L. Rogers
Corporate Secretary

By: /s/ Timothy J. Keating
Timothy J. Keating
Chief Executive Officer

THE UNDERSIGNED, Timothy J. Keating, Chief Executive Officer of Keating Capital, Inc., who executed on behalf of said corporation the foregoing Articles of Amendment, of which this certificate is made a part, hereby acknowledges, in the name and on behalf of said corporation, the foregoing Articles of Amendment to be the corporate act of said corporation and further certifies that, to the best of his knowledge, information, and belief, the matters and facts set forth herein with respect to the approval thereof are true in all material respects, under penalties of perjury.

/s/ Timothy J. Keating
Timothy J. Keating