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**SENATE BILL 5040**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators Pedersen and Padden; by request of Secretary of State

AN ACT Relating to making revisions to the uniform business organizations code; and amending RCW 23.95.235, 23.95.255, 23.95.530, 23B.01.570, and 25.05.500.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 23.95.235 and 2015 c 176 s 1208 are each amended to read as follows:

(1) On request of any person, the secretary of state shall issue a certificate of existence for a domestic entity or a certificate of registration for a registered foreign entity.

(2) A certificate under subsection (1) of this section must state:

(a) The domestic entity's name or the registered foreign entity's name used in this state;

(b) In the case of a domestic entity:

(i) That its public organic record has been filed and has taken effect;

(ii) The date the public organic record became effective;

(iii) The period of the entity's duration if the records of the secretary of state reflect that the entity's period of duration is less than perpetual; and

(iv) That the records of the secretary of state do not reflect that the entity has been dissolved;

(c) In the case of a registered foreign entity((~~,~~)):

(i) That it is registered to do business in this state;

(ii) The date the foreign entity registered to do business in this state; and

(iii) That the records of the secretary of state do not reflect that the foreign entity's registration to do business in the state has been terminated;

(d) That all fees, interest, and penalties owed to this state by the domestic or foreign entity and collected through the secretary of state have been paid, if:

(i) Payment is reflected in the records of the secretary of state; and

(ii) Nonpayment affects the existence or registration of the domestic or foreign entity;

(e) That the most recent annual report required by RCW 23.95.255 has been delivered to the secretary of state for filing;

(f) That a proceeding is not pending under RCW 23.95.610 as to a domestic entity or under RCW 23.95.550 as to a registered foreign entity; and

(g) Other facts reflected in the records of the secretary of state pertaining to the domestic or foreign entity which the person requesting the certificate reasonably requests.

(3) Subject to any qualification stated in the certificate, a certificate issued by the secretary of state under subsection (1) of this section may be relied upon as conclusive evidence of the facts stated in the certificate, and that as of the date of its issuance: (a) In the case of a domestic entity, it is in existence and duly formed or incorporated, as applicable; and (b) in the case of a foreign entity, it is registered and authorized to do business in this state.

(4) The terms "doing business" and "transacting business," and their variants such as "do business" and "transact business," are used interchangeably, and each has the same meaning as the other when used in this title and in Titles 23B, 24, and 25 RCW.

**Sec.**  RCW 23.95.255 and 2015 c 176 s 1212 are each amended to read as follows:

(1) A domestic entity other than a limited liability partnership or nonprofit corporation shall, within one hundred twenty days of the date on which its public organic record became effective, deliver to the secretary of state for filing an initial report that states the information required under subsection (2) of this section.

(2) A domestic entity or registered foreign entity shall deliver to the secretary of state for filing an annual report that states:

(a) The name of the entity and its jurisdiction of formation;

(b) The name and street and mailing addresses of the entity's registered agent in this state;

(c) The street and mailing addresses of the entity's principal office;

(d) In the case of a registered foreign entity, the street and mailing address of the entity's principal office in the state or country under the laws of which it is incorporated;

(e) The names of the entity's governors;

(f) A brief description of the nature of the entity's business; and

(g) ((~~In the case of a business corporation, the names and addresses of the chairperson of its board of directors, if any, president, secretary, and treasurer, or individuals, however designated, performing the functions of such officers; and~~

~~(h)~~)) The entity's unified business identifier number.

(3) Information in an initial or annual report must be current as of the date the report is executed by the entity.

(4) Annual reports must be delivered to the secretary of state on a date determined by the secretary of state and at such additional times as the entity elects.

(5) If an initial or annual report does not contain the information required by this section, the secretary of state promptly shall notify the reporting entity in a record and return the report for correction.

(6) If an initial or annual report contains the name or address of a registered agent that differs from the information shown in the records of the secretary of state immediately before the annual report becomes effective, the differing information in the initial or annual report is considered a statement of change under RCW 23.95.430.

(7) The secretary of state shall send to each domestic entity and registered foreign entity, not less than thirty or more than ninety days prior to the expiration date of the entity's annual renewal, a notice that the entity's annual report must be filed as required by this chapter and that any applicable annual renewal fee must be paid, and stating that if the entity fails to file its annual report or pay the annual renewal fee it will be administratively dissolved. The notice may be sent by postal or ((~~electronic mail [email]~~)) email as elected by the entity, addressed to its registered agent within the state, or to an electronic address designated by the entity in a record retained by the secretary of state. Failure of the secretary of state to provide any such notice does not relieve a domestic entity or registered foreign entity from its obligations to file the annual report required by this chapter or to pay any applicable annual renewal fee. The option to receive the notice provided under this section by ((~~electronic mail [email]~~)) email may be selected only when the secretary of state makes the option available.

**Sec.**  RCW 23.95.530 and 2015 c 176 s 1507 are each amended to read as follows:

(1) A registered foreign entity may withdraw its registration by delivering a statement of withdrawal to the secretary of state for filing. The statement of withdrawal must be executed by the entity and state:

(a) The name of the entity and its jurisdiction of formation;

(b) That the entity is not doing business in this state and that it withdraws its registration to do business in this state;

(c) That the entity revokes the authority of its registered agent to accept service on its behalf in this state; and

(d) An address to which service of process may be made under subsection (3) of this section.

(2) For foreign corporations, the statement of withdrawal must be accompanied by a copy of a revenue clearance certificate issued pursuant to RCW 82.32.260.

(3) After the withdrawal of the registration of an entity, service of process in any action or proceeding based on a cause of action arising during the time the entity was registered to do business in this state may be made pursuant to RCW 23.95.450.

**Sec.**  RCW 23B.01.570 and 2015 c 176 s 2111 are each amended to read as follows:

In the event any domestic corporation((~~, foreign or domestic,~~)) fails to file a full and complete initial report under RCW 23.95.255, or in the event any corporation, foreign or domestic, does business in this state without having paid its annual corporate license fee and without having filed a substantially complete annual report under RCW 23.95.255 when either is due, there shall become due and owing the state of Washington a penalty as established by rule by the secretary under RCW 23.95.260.

A corporation organized under this title may at any time prior to its dissolution as provided in Article 6 of chapter 23.95 RCW, and a foreign corporation registered to do business in this state may at any time prior to the termination of its registration as provided in RCW 23.95.550, pay to the state of Washington its current annual license fee, provided it also pays an amount equal to all previously unpaid annual license fees plus the penalty established by rule by the secretary under RCW 23.95.260.

**Sec.**  RCW 25.05.500 and 2015 c 176 s 5108 are each amended to read as follows:

(1) A partnership which is not a limited liability partnership on June 11, 1998, may become a limited liability partnership upon the approval of the terms and conditions upon which it becomes a limited liability partnership by the vote necessary to amend the partnership agreement except, in the case of a partnership agreement that expressly considers obligations to contribute to the partnership, the vote necessary to amend those provisions, and by delivering to the secretary of state for filing the applications required by subsection (2) of this section. A partnership which is a limited liability partnership on June 11, 1998, continues as a limited liability partnership under this chapter.

(2)(a) To become and to continue as a limited liability partnership, a partnership must deliver to the secretary of state for filing an application stating the name of the partnership; the address of its principal office; the name and address of a registered agent for service of process in this state which the partnership will be required to continuously maintain in accordance with Article 4 of chapter 23.95 RCW; the number of partners; a brief statement of the business in which the partnership engages; any other matters that the partnership determines to include; and that the partnership thereby applies for status as a limited liability partnership.

(b) A registered agent for service of process under (a) of this subsection may be any person authorized under Article 4 of chapter 23.95 RCW to serve as registered agent.

(3) The application must be accompanied by a fee for each partnership as established by the secretary of state under RCW 23.95.260.

(4) The secretary of state must register as a limited liability partnership any partnership that submits a completed application with the required fee.

(5) A partnership registered under this section must pay an annual fee, in each year following the year in which its application is filed, on a date and in an amount specified by the secretary of state under RCW 23.95.260. The fee must be accompanied by ((~~a notice, on a form provided by the secretary of state, of the number of partners currently in the partnership and of any material changes in the information contained in the partnership's application for registration~~)) an annual report pursuant to RCW 23.95.255(2).

(6) Registration is effective as specified in RCW 23.95.210, and remains effective until:

(a) It is voluntarily withdrawn by delivering to the secretary of state for filing a written withdrawal notice executed by a majority of the partners or by one or more partners or other persons authorized to execute a withdrawal notice; or

(b) Thirty days after receipt by the partnership of a notice from the secretary of state, which notice must be sent by first-class mail, postage prepaid, that the partnership has failed to make timely payment of the annual fee specified in subsection (5) of this section, unless the fee is paid within such a thirty-day period.

(7) The status of a partnership as a limited liability partnership, and the liability of the partners thereof, is not affected by: (a) Errors in the information stated in an application under subsection (2) of this section or a notice under subsection (6) of this section; or (b) changes after the filing of such an application or notice in the information stated in the application or notice.

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