

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

HOUSE BILL 1398

5 By: Representative Sturch
6

For An Act To Be Entitled

8 AN ACT TO ESTABLISH A PROCEDURE FOR THE SECRETARY OF
9 STATE FOR REVOCATION OF AUTHORITY TO CONDUCT BUSINESS
10 IN ARKANSAS; AND FOR OTHER PURPOSES.
11

Subtitle

12 TO ESTABLISH A PROCEDURE FOR THE
13 SECRETARY OF STATE FOR REVOCATION OF
14 AUTHORITY TO CONDUCT BUSINESS IN
15 ARKANSAS.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Title 4, Chapter 28, Subchapter 2, is amended
23 to add an additional section to read as follows:

24 4-28-226. Grounds for revocation.

25 (a) As used in this section:

26 (1) "Past-due annual report" means an annual report that is due
27 three (3) years before the year in which the year's filing is presented; and

28 (2)(A) "Revoke" means to remove any authority to do business in
29 this state.

30 (B) If a nonprofit corporation is revoked, a nonprofit
31 corporation or incorporators of the nonprofit corporation, may not:

32 (i) File any forms or documentation related to that
33 nonprofit corporation;

34 (ii) File any initial forms or documentation with
35 the Secretary of State to create a legal entity in this state; or

36 (iii) Obtain authority to do business in this state.



1 (b) The Secretary of State may commence a proceeding to revoke the
2 charter of a nonprofit corporation authorized to transact business in this
3 state if:

4 (1) The nonprofit corporation:

5 (A) Does not deliver its annual report to the Secretary of
6 State within sixty (60) days after which the annual report is due; and

7 (B) The annual report is considered past due as determined
8 by the Secretary of State;

9 (2) The nonprofit corporation does not pay any fees or penalties
10 imposed by this chapter or any other law within sixty (60) days after the
11 fees or penalties are due;

12 (3) The nonprofit corporation does not have a registered agent
13 in this state for sixty (60) days or more;

14 (4) The nonprofit corporation does not file an appropriate
15 notice with the Secretary of State within sixty (60) days of the change or
16 resignation of the registered agent of the nonprofit corporation;

17 (5) An incorporator, director, officer, or agent of the
18 nonprofit corporation signs a document he or she knew was false in any
19 material respect with the intent that the document be delivered to the
20 Secretary of State for filing; or

21 (6) The nonprofit corporation is dissolved or disappears as of
22 the result of a merger or conversion.

23 (c)(1) A nonprofit corporation whose charter has been administratively
24 revoked may apply to the Secretary of State for reinstatement within two (2)
25 years after the effective date of the revocation on an application provided
26 by the Secretary of State.

27 (2) The application shall include:

28 (A) The name of the nonprofit corporation;

29 (B) The effective date of the revocation; and

30 (C) Notice that the grounds for revocation either did not
31 exist or have been corrected.

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33 SECTION 2. Arkansas Code § 4-30-114 is amended to read as follows:
34 4-30-114. Annual reports.

35 (a) As used in this section:

36 (1) "Past-due annual report" means an annual report that is due

1 three (3) years before the year in which the year's filing is presented; and

2 (2)(A) "Revoke" means to remove any authority to do business in
3 this state.

4 (B) If a cooperative corporation is revoked, the
5 cooperative corporation or the incorporators of the cooperative corporation,
6 shall not:

7 (i) Be allowed to file any forms or documentation
8 related to that cooperative corporation;

9 (ii) Be able to file any initial forms or
10 documentation with the Secretary of State to create a legal entity in this
11 state; or

12 (iii) Be able to obtain authority to do business in
13 this state.

14 (b)(1) Each A corporation organized under the provisions of this
15 chapter shall make an annual report to the Secretary of State, as is required
16 of other corporations.

17 (2) However, the cooperative corporation shall be required to
18 report the names of its stockholders and the amount of the stock owned by
19 each for such the years only as may be required by the Secretary of State.

20 (c)(1) An annual report shall be filed by July 1 of each year in the
21 office of the Secretary of State.

22 (2) If the cooperative corporation does not deliver its annual
23 report to the Secretary of State within sixty (60) days after its due date,
24 it is past-due.

25 (d)(1) The Secretary of State may administratively revoke the charter
26 of a cooperative corporation that fails to file an annual report when due or
27 to pay the required filing fee.

28 (2) The Secretary of State shall provide the cooperative
29 corporation at least sixty (60) days' written notice of intent to revoke the
30 statement.

31 (3) The notice shall be mailed to the cooperative corporation at
32 its chief executive office stated in the last filed annual report.

33 (4) The notice shall specify:

34 (A) The annual report has not been filed;

35 (B) The required filing fee has not been paid; and

36 (C) The effective date of the revocation.

1 (5) The revocation shall not become effective if before the
 2 effective date of the revocation, the cooperative corporation:

3 (A) Files its annual report; and

4 (B) Pays the fee.

5 (e)(1) A cooperative corporation whose charter has been
 6 administratively revoked may apply to the Secretary of State for
 7 reinstatement within two (2) years after the effective date of the
 8 revocation.

9 (2) The application under subdivision (e)(1) of this section
 10 shall require the following information:

11 (A) The name of the cooperative corporation and the
 12 effective date of the revocation; and

13 (B) That the ground for revocation either did not exist or
 14 has been corrected.

15
 16 SECTION 3. Arkansas Code § 4-46-1003 is amended to read as follows:

17 4-46-1003. Annual report.

18 (a) As used in this section:

19 (1) "Past-due annual report" means an annual report that is due
 20 three (3) years before the year in which the year's filing is presented; and

21 (2)(A) "Revoke" means to remove any authority to do business in
 22 this state.

23 (B) If a limited liability partnership is revoked, a
 24 limited liability partnership or individual partners of the limited liability
 25 partnership, may not:

26 (i) file any forms or documentation related to that
 27 limited liability partnership;

28 (ii) file any initial forms or documentation with
 29 the Secretary of State to create a legal entity in this state; or

30 (iii) obtain authority to do business in this state.

31 (b) A limited liability partnership, and a foreign limited liability
 32 partnership authorized to transact business in this State, shall file an
 33 annual report in the office of the Secretary of State which contains:

34 (1) the name of the limited liability partnership and the state
 35 or other jurisdiction under whose laws the foreign limited liability
 36 partnership is formed;

1 (2) the current street address of the partnership's chief
 2 executive office and, if different, the current street address of an office
 3 in this State, if any; and

4 (3) if there is no current office in this State, the information
 5 required by § 4-20-105(a).

6 ~~(b)~~(c)(1) An annual report ~~must~~ shall be filed between January 1 and
 7 April 1 of each year following the calendar year in which a partnership files
 8 a statement of qualification or a foreign partnership becomes authorized to
 9 transact business in this State.

10 (2) an annual report that is filed with the Secretary of State
 11 after midnight on April 1 of a calendar year is past due.

12 ~~(e)~~(d)(1) The Secretary of State may administratively revoke the
 13 statement of qualification of a partnership that fails to file an annual
 14 report when due or to pay the required filing fee.

15 (2) ~~The~~ the Secretary of State shall provide the partnership at
 16 least sixty (60) days' written notice of intent to revoke the statement.

17 (3) ~~The~~ the notice ~~must~~ shall be mailed to the partnership at
 18 its chief executive office set forth in the last filed statement of
 19 qualification or annual report.

20 (4) ~~The~~ the notice ~~must~~ shall specify that ~~the annual report~~
 21 ~~that:~~

22 (A) ~~has~~ the annual report has not been filed;
 23

24 (B) ~~the~~ the required filing fee that has not been paid;
 25

and

26 (C) ~~the~~ The effective date of the revocation.

27 (5) The revocation is not effective if the annual report is
 28 filed and the fee is paid before the effective date of the revocation.

29 ~~(d)~~(e) A revocation under ~~subsection (e)~~ subsection (d) of this
 30 section only affects a partnership's status as a limited liability
 31 partnership and is not an event of dissolution of the partnership.

32 ~~(e)~~(f)(1) A partnership whose statement of qualification has been
 33 administratively revoked may apply to the Secretary of State for
 34 reinstatement within two (2) years after the effective date of the
 35 revocation.

36 (2) The application ~~must~~ shall state:

~~(1)~~(A) the name of the partnership and the effective date

1 of the revocation; and

2 ~~(2)~~(B) that the ground for revocation either did not exist
3 or has been corrected.

4 ~~(f)~~(g) A reinstatement under ~~subsection (e)~~ subsection (f) of this
5 section ~~relates back to and~~ takes effect as of the effective date of the
6 revocation, and the partnership's status as a limited liability partnership
7 continues as if the revocation had never occurred.

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9 SECTION 4. Arkansas Code § 4-47-210 is amended to read as follows:

10 4-47-210. Annual report for Secretary of State.

11 (a) As used in this section:

12 (1) "Past-due annual report" means an annual report that is due
13 three (3) years before the year in which the year's filing is presented; and

14 (2)(A) "Revoke" means to remove any authority to do business in
15 this state.

16 (B) If a limited partnership is revoked, a limited
17 partnership or individual partners of the limited partnership may not:

18 (i) file any forms or documentation related to that
19 limited partnership;

20 (ii) file any initial forms or documentation with
21 the Secretary of State to create a legal entity in this state; or

22 (iii) obtain authority to do business in this state.

23 (b) A limited partnership or a foreign limited partnership authorized
24 to transact business in this State shall deliver to the Secretary of State
25 for filing an annual report that states:

26 (1) the name of the limited partnership or foreign limited
27 partnership;

28 (2) the street and mailing address of its designated office and
29 the information concerning its agent for service of process required by § 4-
30 20-105(a);

31 (3) in the case of a foreign limited partnership, the street and
32 mailing address of its principal office; and

33 (4) in the case of a foreign limited partnership, the State or
34 other jurisdiction under whose law the foreign limited partnership is formed
35 and any alternate name adopted under § 4-47-905(a).

36 ~~(b)~~(c) Information in an annual report ~~must~~ shall be current as of the

1 date the annual report is delivered to the Secretary of State for filing.

2 ~~(e)~~(d) The first annual report ~~must~~ shall be delivered to the
3 Secretary of State between January 1 and May 1 of the year following the
4 calendar year in which a limited partnership was formed or a foreign limited
5 partnership was authorized to transact business. An annual report ~~must~~ shall
6 be delivered to the Secretary of State between January 1 and May 1 of each
7 subsequent calendar year.

8 ~~(d)~~(e) If an annual report does not contain the information required
9 in ~~subsection (a)~~ subsection (b) of this section, the Secretary of State
10 shall promptly notify the reporting limited partnership or foreign limited
11 partnership and return the report to it for correction. If the report is
12 corrected to contain the information required in ~~subsection (a)~~ subsection
13 (b) of this section and delivered to the Secretary of State within ~~30~~ thirty
14 (30) days after the effective date of the notice, it is timely delivered.

15 ~~(e)~~(f) If a filed annual report contains an address of the designated
16 office or information provided under ~~subdivision (a)(2)~~ subdivision (b)(2) of
17 this section which differs from the information shown in the records of the
18 Secretary of State immediately before the filing, the differing information
19 in the annual report is considered a statement of change under § 4-20-108.

20 (g)(1) The Secretary of State may administratively revoke the
21 statement of qualification of a limited partnership that fails to file an
22 annual report when due or pay the required filing fee.

23 (2) The Secretary of State shall provide the limited partnership
24 a minimum of sixty (60) days' written notice of intent to revoke.

25 (3) The notice shall be mailed to the limited partnership at its
26 chief executive office as stated in the most recent:

27 (A) Filed statement of qualification; or

28 (B) Annual report.

29 (4) The notice shall specify:

30 (A) the annual report has not been filed;

31 (B) the required filing fee has not been paid; and

32 (C) The effective date of the revocation.

33 (5) The revocation is not effective if, before the effective
34 date of the revocation, the:

35 (A) annual report is filed; and

36 (B) the required filing fee is paid.

1 (h) A revocation under subsection (g) of this section affects only a
 2 limited partnership's status as a limited partnership and is not an event of
 3 dissolution of the partnership.

4 (i)(1) A limited partnership whose statement of qualification has been
 5 administratively revoked may apply to the Secretary of State for
 6 reinstatement within two (2) years after the effective date of the
 7 revocation.

8 (2) The application shall state:

9 (A) the name of the limited partnership;

10 (B) the effective date of the revocation;

11 (C) that the grounds for the revocation did not exist; or

12 (D) that the grounds for the revocation have been

13 corrected.

14 (j) A reinstatement under subsection (i) of this section becomes
 15 retroactive and effective as of the effective date of the revocation, and the
 16 partnership's status as a limited partnership continues as if the revocation
 17 never occurred.

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