
OLR Bill Analysis

HB 6565

AN ACT CONCERNING BUSINESS ENTITY FILINGS.

SUMMARY:

This bill makes a number of changes regarding business entity filings with the secretary of the state.

For domestic and out-of-state stock and non-stock corporations, limited partnerships, limited liability companies (LLCs), and limited liability partnerships (LLPs), the bill:

1. requires filing annual reports with the secretary electronically unless, on request, the secretary grants an exemption;
2. requires the secretary to deliver or e-mail a notice to each entity that its annual report is due, rather than mail a form for the annual report; and
3. allows the secretary to require or permit any document required by law or regulation governing the particular entity to be filed by electronic transmission or new technology, as it develops (current law already allows corporations to deliver documents by electronic transmission to the extent the secretary permits it).

For limited partnerships, LLPs, and statutory trusts, the bill allows the secretary, in her discretion and for good cause, to permit use of a photostatic or photographic copy, instead of the original instrument, of any document required or permitted to be filed or recorded under the laws governing the entity. The bill gives the copy the same force and effect as the original. The law already applies these provisions to corporations and LLCs.

The bill also adds and changes definitions related to documents for several entities, makes changes for certain documents from LLCs and

statutory trusts, and makes technical and conforming changes.

By law, certain LLPs must have a statutory agent for service of process. The bill adds provisions on replacing an agent, notifying the secretary of address changes, and agent resignations.

EFFECTIVE DATE: January 1, 2012

ANNUAL REPORTS

For domestic and out-of-state stock and non-stock corporations, limited partnerships, LLCs, and LLPs, the bill requires filing annual reports by electronic transmission, but it allows the secretary, on request, to exempt an entity from electronic filing if it is not capable of electronic filing, it cannot pay in an authorized manner by electronic means, or good cause is shown.

The bill requires the annual reports to include the entity's e-mail address if there is one.

It requires the secretary to deliver or e-mail a notice that the annual report is due, rather than mail a form for the annual report.

DEFINITIONS

The bill adds and changes certain definitions in the laws that apply to particular entities. As a result, these terms will have the same definitions as they apply to corporations, limited partnerships, LLCs, and LLPs.

The bill adds the following definitions to the laws governing limited partnerships and LLPs:

1. "deliver" or "delivery" is any method used in conventional commercial practice, including by hand, mail, commercial delivery, and electronic transmission;
2. a "document" includes anything delivered to the secretary for filing under the entity's laws;
3. "electronic transmission" is any process of communication not

directly involving the physical transfer of paper that is suitable for the recipient retaining, retrieving, and reproducing information; and

4. "sign" or "signature" includes any manual, facsimile, conformed, or electronic signature.

The bill extends these and other definitions to all of the provisions on LLPs.

For LLCs, it adds the same definitions of "deliver" and "document" and changes the definition of "sign" to include electronic signatures.

The bill also adds the definitions for "document" and "sign" to the laws on statutory trusts but it does not add the other terms.

LIMITED LIABILITY COMPANIES

Under current law, articles of organization and any documents required to be filed under the LLC law must be typed, printed, or, if authorized by the secretary, electronically transmitted. The bill requires them to be in a format that can be retrieved or reproduced in a typed or printed form if electronically transmitted.

STATUTORY TRUSTS

Current law requires a statutory trust to file the original, signed copy of its certificate of trust with the secretary. The bill eliminates the requirement that the copy be the original document and only requires a signed copy. The bill makes conforming changes to require that the date of filing of the initial certificate of trust, rather than the date of filing an "original" certificate of trust, be included when filing certificates of amendment or cancellation or restated certificates of trust. It requires the secretary to endorse, accept for filing, and retain signed documents instead of signed original documents.

Current law also requires a foreign statutory trust to file an original, signed copy of an application for registration. The bill eliminates the requirement that the copy be the original document and only requires a signed copy.

STATUTORY AGENT FOR CERTAIN LIMITED LIABILITY PARTNERSHIPS

By law, a LLP that does not have its principal office in the state and a foreign LLP must appoint a statutory agent for service of process in the state by filing a written appointment with the secretary.

The bill:

1. requires the partnership to appoint another agent “forthwith” when its statutory agent dies, dissolves (a statutory agent can be a person or business entity), leaves the state, or resigns;
2. requires the partnership to “forthwith” file notice of an agent’s new address with the secretary if the agent changes its address in the state from the one in the secretary’s records;
3. allows an agent to resign by filing a signed statement in duplicate with the secretary, requires the secretary “forthwith” to file one copy and mail the other to the partnership’s principal office, and makes the resignation effective and terminates the agent’s authority 30 days after filing; and
4. allows a partnership to revoke an appointment by making a new appointment.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 41 Nay 0 (03/30/2011)