

AN ACT

ENTITLED, An Act to revise certain filing requirements for limited liability companies and to repeal certain obsolete provisions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 47-34A-202.1 be amended to read as follows:

47-34A-202.1. (a) One or more persons may organize a limited liability company, consisting of one or more members, by delivering articles of organization to the Office of the Secretary of State for filing.

(b) Unless a delayed effective date is specified in accordance with § 47-34A-206(d), the existence of a limited liability company begins when the articles of organization are filed.

(c) The original and one exact or conforming copy of the articles of organization shall be delivered to the secretary of state. If the secretary of state finds that the articles of organization conform to law, the secretary of state shall, when all fees have been paid as prescribed:

- (1) Endorse both the original and the exact or conforming copy with the word, Filed, and the month, date, and year of the filing;
- (2) File the original;
- (3) Issue a certificate of organization and affix to the certificate, the exact or conforming copy.

The certificate of organization, together with the exact or conforming copy of the articles of organization affixed to it by the secretary of state, shall be returned to the principal office of the limited liability company or to its representative.

Section 2. That § 47-34A-211 be amended to read as follows:

47-34A-211. (a) A limited liability company, and a foreign limited liability company authorized to transact business in this state, except a bank organized pursuant to § 51A-3-1.1, shall deliver to

the secretary of state for filing an annual report that sets forth:

- (1) The name of the company and the state or country under whose law it is organized;
- (2) The address of its registered office and the name and address of its registered agent for service of process in this state;
- (3) The address of its principal office;
- (4) The names and business addresses of any managers.

(b) Information in an annual report must be current as of the date the annual report is signed on behalf of the limited liability company.

(c) The first annual report shall be delivered to the secretary of state before the first day of the second month of the year following the year in which a limited liability company was organized or a foreign company was authorized to transact business. The subsequent annual report shall be delivered to the secretary of state by the same date each subsequent year.

(d) If an annual report does not contain the information required in subsection (a) or the fees required by § 47-34A-212, the secretary of state shall promptly notify the reporting limited liability company or foreign limited liability company and return the report to it for correction. If the report is corrected to contain the information required in subsection (a) or the fees required by § 47-34A-212 and delivered to the secretary of state within thirty days after the effective date of the notice, it is timely filed.

Section 3. That § 47-34A-212 be amended to read as follows:

47-34A-212. The secretary of state shall charge and collect for:

- (a) Filing the articles of organization in the case of a domestic limited liability company, a filing fee of one hundred twenty-five dollars. Filing the articles of organization in the case of a foreign limited liability company, a filing fee of five hundred fifty dollars;
- (b) Deleted by SL 2004, ch 279, § 2.

(c) A reporting fee of fifty dollars, due and payable with the filing of each annual report.

Section 4. That § 47-34A-811 be amended to read as follows:

47-34A-811. (a) A limited liability company administratively dissolved may apply to the secretary of state for reinstatement after the effective date of dissolution. The applicant shall submit with the application the appropriate filing fee. The secretary of state shall base filing fees on any delinquent annual reports and fees for the period prior to the reinstatement application. The application must:

- (1) Recite the name of the company and the effective date of its administrative dissolution;
- (2) State that the ground for dissolution either did not exist or have been eliminated;
- (3) State that the company's name satisfies the requirements of § 47-34A-105; and
- (4) Contain a certificate from the appropriate state authority reciting that all taxes owed by the company have been paid.

(b) If the secretary of state determines that the application contains the information required by subsection (a) and that the information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites this determination and the effective date of reinstatement, file the original of the certificate, and serve the company with a copy of the certificate.

(c) When reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the company may resume its business as if the administrative dissolution had never occurred.

Section 5. That §§ 47-34-1 to 47-34-59, inclusive, be repealed.

An Act to revise certain filing requirements for limited liability companies and to repeal certain obsolete provisions.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1009

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1009
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State