HLS 19RS-524 ORIGINAL

2019 Regular Session

HOUSE BILL NO. 297

1

BY REPRESENTATIVES HOWARD AND FOIL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

AN ACT

SECRETARY OF STATE: Provides relative to the secretary of state's office

2 To amend and reenact R.S. 9:3403(A), 3409(B) and (C), 3422(A), 3427, 3428(B) and (C), 3 3432(F), and 3445(B), R.S. 12:1-121(B), 1-1007(C), 205(A) and (E)(1), 205.1(B) 4 and (C), 238(B), 239.1(A), 241, 243(F)(1) and (H), 247.1(B)(2) and (C)(1)(b), 5 250(C)(2), 250.1(A), 256(A)(2), 257(B), 262.1(E)(1), 304(A)(11)(a), 307.1, 312(C), 6 312.1, 313(D), 492(C), 1304(A), 1308.1(B), 1308.2(C)(1), 1308.3(C)(introductory 7 paragraph), 1309(B), 1310(F), 1335.1(A), 1339(B), 1340(A)(1), 1349, 1350.1(B), 8 1352, 1353(D), 1360(B), 1702, and 1804(A), and R.S. 51:211(A), 215.1(A), and 219, 9 and to enact R.S. 9:3409(D) and 3428(D), R.S. 12:205.1(D), 236(F), 243(G)(5), 10 308(G), 309(C), 1307(D), 1308(G), 1308.1(C), 1350(G), and 1350.1(C), and R.S. 11 51:217(C), relative to the secretary of state's office; to provide for filing procedures; 12 to provide for withdrawal procedure; to provide for revocation or suspension of 13 certificate of authority; to provide for conversion of state of organization requests; 14 to provide for confidentiality of information; to make technical corrections; to 15 provide for an effective date; and to provide for related matters. 16 Be it enacted by the Legislature of Louisiana: 17 Section 1. R.S. 9:3403(A), 3409(B) and (C), 3422(A), 3427, 3428(B) and (C), 18 3432(F), and 3445(B) are hereby amended and reenacted and R.S. 9:3409(D) and 3428(D) 19 are hereby enacted to read as follows:

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	§3403. Contract of partnership; required content; use of names
2	A.(1) A contract of partnership filed for registry with the secretary of state
3	shall contain the name and taxpayer identification number of the partnership, the
4	municipal address of its principal place of business in this state, and the name and
5	the municipal address of each partner, including partners in commendam, if any.
6	(2) The failure to include the taxpayer identification number of the
7	partnership shall not invalidate nor cause the secretary of state to reject the contract.
8	(3) The secretary of state may prescribe and furnish forms for filing the
9	contract of partnership, and if the secretary of state so requires, use of the forms is
10	mandatory.
11	* * *
12	§3409. Annual report
13	* * *
14	B. The secretary of state may prescribe and furnish forms for filing the
15	annual report, and if the secretary of state so requires, use of the forms is mandatory.
16	B.C. Any partnership registered with the secretary of state prior to August
17	15, 1997, shall file an annual report on the next anniversary date of registration.
18	C.D. The provisions of this Section shall not apply to a partnership which
19	does not have a written agreement.
20	* * *
21	§3422. Registration
22	A.(1) For a foreign partnership to enjoy the rights, privileges and juridical
23	status of a Louisiana partnership, it must file for registry with the secretary of state
24	in the Central Registry for Contracts of Partnership created by R.S. 9:3401 a
25	statement containing all of the following information:
26	(a) The name and taxpayer identification number of the partnership;.
27	(b) The jurisdiction of its formation;
28	(c) The designation of an agent for service of process within this state,
29	including his name and municipal address;.

1	(d) The name and municipal address of at least one of its general partners
2	who gives consent under R.S. 9:3424;.
3	(e) The municipal address of its principal place of business outside of this
4	state ; .
5	(f) The municipal address of its principal place of business in this state. If
6	the partnership does not have a principal place of business in this state, then the
7	location at the municipal address of the agent for service of process is deemed to be
8	the partnership's principal place of business in this state;.
9	(g) Whether or not If the partnership intends to own immovable property in
10	Louisiana in the partnership name;.
11	(h) If any of the partners are to have limited liability recognized in
12	Louisiana; and.
13	(i) An affidavit executed by a general partner who certifies the correctness
14	of the information and that he has the authority to make the certification.
15	(2) The secretary of state may prescribe and furnish forms for filing the
16	statement of registry, and if the secretary of state so requires, use of the forms is
17	mandatory.
18	(3) The failure to include the taxpayer identification number of the
19	partnership shall not invalidate nor cause the secretary of state to reject the contract.
20	(2)(4) The articles of partnership shall not be filed with the registration
21	statement; however, by registering the partnership, the partnership agrees to furnish
22	a true copy of its articles of partnership to the secretary of state within thirty days of
23	his written request.
24	* * *
25	§3427. Termination
26	A duly registered foreign partnership may terminate its registration by written
27	notification to the secretary of state by a person who certifies that he is a partner of
28	the partnership and has the authority to terminate the registration. The secretary of

1	state may prescribe and furnish forms for filing the termination, and if the secretary
2	of state so requires, use of the forms is mandatory.
3	§3428. Annual report
4	* * *
5	B. The secretary of state may prescribe and furnish forms for filing the
6	annual report, and if the secretary of state so requires, use of the forms is mandatory.
7	B.C. Any foreign partnership registered with the secretary of state prior to
8	August 15, 1997, shall file an annual report on the next anniversary date of
9	registration.
10	C.D. The provisions of this Section shall not apply to a partnership which
11	does not have a written agreement.
12	* * *
13	§3432. Registered limited liability partnerships
14	* * *
15	F. The secretary of state may provide forms for application for or renewal
16	of registration., and if the secretary of state requires, use of the forms is mandatory.
17	* * *
18	§3445. Certificate of merger or consolidation
19	* * *
20	B.(1) The secretary of state may prescribe and furnish forms for filing the
21	agreement and certificate of merger, and if the secretary of state so requires, use of
22	the forms is mandatory.
23	B.(1)(2) The secretary of state, after all taxes, fees, and charges have been
24	paid as required by law, shall record the agreement, or certificate in lieu thereof, in
25	his office, endorse thereon the date and, if requested, the hour of filing thereof with
26	him, and issue a certificate of merger or consolidation, which shall recite the names
27	of all of the merging and consolidating constituent entities, the name of the state or
28	country under the laws of which each was formed, whether a merger or consolidation
29	is involved, the name of the surviving or new entity, the name of the state or country

1	under the laws of which the new entity is formed, the date, and, if endorsed on the
2	agreement or certificate, the hour of filing of the agreement or certificate with him,
3	and the effective date and time of the merger or consolidation, if stated in the
4	agreement or certificate.
5	(2)(3) The agreement or certificate may be delivered to the secretary of state
6	in advance for filing as of any specified date and, if specified upon such delivery, as
7	of any given time on such date, within thirty days after the date of delivery. A
8	duplicate original of the certificate of merger or consolidation issued by the secretary
9	of state shall, within thirty days after issuance of the certificate, be filed for record
10	in the conveyance records of each parish in this state in which any of the constituent
11	entities has immovable property, title to which will be transferred as a result of the
12	merger or consolidation.
13	* * *
14	Section 2. R.S. 12:1-121(B), 1-1007(C), 205(A) and (E)(1), 205.1(B) and (C),
15	238(B), 239.1(A), 241, 243(F)(1) and (H), 247.1 (B)(2) and (C)(1)(b), 250(C)(2), 250.1(A),
16	256(A)(2), 257(B), 262.1(E)(1), 304(A)(11)(a), 307.1, 312(C), 312.1, 313(D), 492(C),
17	1304(A), 1308.1(B), 1308.2(C)(1), 1308.3(C)(introductory paragraph), 1309(B), 1310(F),
18	1335.1(A), 1339(B), 1340(A)(1), 1349, 1350.1(B), 1352, 1353(D), 1360(B), 1702, and
19	1804(A) are hereby amended and reenacted and R.S. 12:205.1(D), 236(F), 243(G)(5),
20	308(G), 309(C), 1307(D), 1308(G), 1308.1(C), 1350(G), and 1350.1(C) are hereby enacted
21	to read as follows:
22	§1-121. Forms
23	* * *
24	B. The secretary of state may prescribe and furnish on request forms for
25	other documents required or permitted to be filed by this Chapter, but their use is not
26	mandatory and if the secretary of state so requires, use of the form is mandatory.
27	* * *
28	§1-1007. Restated articles of incorporation
29	* * *

C. A corporation that restates its articles of incorporation shall deliver to the secretary of state for filing articles of restatement setting forth the name of the corporation and the entire text of the original articles as amended by all amendments, together with a certificate which states that the restated articles consolidate the articles of incorporation and all amendments into a single document and, if a new amendment is included in the restated articles, which also includes the statements required under R.S. 12:1-1006.

8 * * *

§205. Filing and recording articles; issuance and effect of certificate of incorporation; commencement of corporate existence

A. The articles shall be filed with the secretary of state. The secretary of state may prescribe and furnish forms for filing the articles of incorporation, and if the secretary of state so requires, use of the forms is mandatory. The articles may be delivered to the secretary of state in advance for filing as of any specified date and, if specified upon such delivery, as of any given time on such date, within thirty days after the date of delivery.

17 * * *

E.(1) If the corporation contracts with the state, a statement acknowledging such contract shall be filed with the secretary of state, and shall include the names and addresses of the board of directors, officers, and all persons or corporate entities who hold an ownership interest of five percent or more in the corporation or who hold by proxy the voting power of five percent or more in the corporation and, if anyone is holding stock in his own name that actually belongs to another, the name of the person for whom held, including stock held pursuant to a counterletter. The statement acknowledging a state contract and ownership and voting interest shall be duly acknowledged, or executed by authentic act. The secretary of state may prescribe and furnish forms for filing such statement, and if the secretary of state so requires, use of the forms is mandatory.

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1	§205.1. Annual report to secretary of state
2	* * *
3	B. The secretary of state may prescribe and furnish forms for filing the
4	annual report, and if the secretary of state so requires, use of the forms is mandatory.
5	B.C. Each corporation, except a church, shall pay a filing fee as provided in
6	R.S. 49:222 at the time of filing such report. No church shall be required to pay said
7	the fee.
8	C.(1) D.(1) A church which is a member of and in good standing with a
9	statewide church association may file such report through said the association. The
10	association shall then furnish the required information to the secretary of state. In
11	lieu of submitting the information on a form supplied by the secretary of state, said
12	the association may submit a roster of information, provided that said the roster
13	contains the required information.
14	(2) A church which is a member of and in good standing with a statewide
15	church association shall not be subject to the penalties otherwise applicable to
16	corporations pursuant to this Title for failure to file annual reports.
17	§236. Registered office and agent
18	* * *
19	F. The secretary of state may prescribe and furnish forms filing the notice
20	of change and agent resignation, and if the secretary of state so requires, use of the
21	forms is mandatory.
22	* * *
23	§238. Articles of amendment; contents; filing
24	* * *
25	B. The articles of amendment shall be filed with the secretary of state. The
26	secretary of state may prescribe and furnish forms for filing the amendment, and if
27	the secretary of state so requires, use of the forms is mandatory. Articles of
28	amendment may be delivered to the secretary of state for filing, as of any specified
29	date, and, if specified upon such delivery, as of any given time on such date, within

thirty days after the date of delivery. When all fees and charges have been paid as required by law, the secretary of state shall record the articles of amendment in his office, and endorse thereon the date and, if requested, the hour of the filing thereof with him. Thereupon, the amendment shall be effective as of the date and, if endorsed on the articles of amendment, the hour of filing with the secretary of state, except that, if the articles of amendment were so filed within five days, exclusive of legal holidays, after acknowledgment thereof or execution thereof as an authentic act, the amendment shall be effective as of the time of such acknowledgment or execution.

* * *

§239.1. Certificate of correction

A. Whenever the original, amended, or restated articles of incorporation or an initial report a document filed with the secretary of state under any provision of this Chapter is an inaccurate record of the corporate action therein referred to, or is defectively or erroneously executed or acknowledged, such instrument may be corrected by filing with the secretary of state a certificate of correction which shall be executed, acknowledged, filed, and recorded in accordance with this Section. The certificate of correction shall specify the inaccuracy or defect to be corrected and shall set forth the portion of the instrument in corrected form. The secretary of state may prescribe and furnish forms for filing the certificate of correction, and if the secretary of state so requires, use of the forms is mandatory.

* * *

§241. Restatement of articles

A. On authorization of the board of directors, a corporation may execute and file restated articles. Such restated articles shall contain the entire text of the original articles as amended by all amendments thereto, except that names and addresses of incorporators and directors may be omitted; may contain new amendments adopted by a method prescribed in R.S. 12:237 or 239; and shall recite:

1	(1) That the restatement accurately copies the articles and all amendments
2	thereto in effect at the date of the restatement, without substantive change except as
3	made by any new amendment or amendments contained in the restatement, and
4	indicate any such changes;.
5	(2) That each amendment has been effected in conformity with law;.
6	(3) The date of incorporation and the date of the restatement; and.
7	(4) Such other information as may be required by R.S. 12:237, 239 and 240,
8	if the restatement contains any new amendment.
9	B. The secretary of state may prescribe and furnish forms for filing the
10	restated articles, and if the secretary of state so requires, use of the forms is
11	mandatory.
12	B:C. The restated articles shall be executed, filed and recorded in the manner
13	provided for articles of amendment in R.S. 12:238, and shall be effective, when
14	recorded by the Secretary secretary of State state, as of the date and, if endorsed on
15	the restated articles, the hour of filing with him.
16	C.D. Upon effectiveness of the restated articles, the original articles and all
17	amendments thereto shall be superseded, and the restated articles shall be deemed
18	to be the articles of incorporation of the corporation.
19	* * *
20	§243. Merger or consolidation procedure
21	* * *
22	F.(1) The secretary of state may prescribe and furnish forms for filing the
23	merger agreement, and if the secretary of state so requires, use of the forms is
24	mandatory. The agreement, so adopted, certified and acknowledged, shall be filed
25	with the secretary of state, who, after all incorporation taxes, fees and charges have
26	been paid as required by law, shall record the same in his office, endorse thereon the
27	date and, if requested, the hour of filing thereof with him, and issue a certificate of
28	merger or consolidation which shall recite the names of all of the merging and
29	consolidating corporations, the name of the state or country under the laws of which

1 each was formed, whether a merger or consolidation is involved, the name of the 2 surviving or consolidated corporation, the name of the state or country under the 3 laws of which the consolidated corporation is formed, the date and, if endorsed on 4 the agreement, the hour of filing of the agreement with him, and the effective time 5 of the merger or consolidation, if stated in the agreement. 6 7 G. 8 9 (5) The secretary of state may prescribe and furnish forms for filing the 10 certificate of merger, and if the secretary of state so requires, use of the form is 11 mandatory. 12 H.(1) Notwithstanding approval by the members, and at any time prior to the 13 effectiveness of the merger or consolidation, the merger or consolidation may be 14 abandoned pursuant to a provision for such abandonment, if any, contained in the 15 agreement of merger or consolidation. 16 (2) The secretary of state may prescribe and furnish forms for abandoning 17 the merger or consolidation, and if the secretary of state so requires, use of the forms 18 is mandatory. 19 20 §247.1. Change of jurisdiction of incorporation 21 22 В. 23 24 (2) There shall be filed with the secretary of state a certificate as to such 25 authorization by the members or shareholders, signed by an officer of the corporation 26 and acknowledged by the officer who signed it. The secretary of state may prescribe 27 and furnish forms for such certificate, and if the secretary of state so requires, use of 28 the forms is mandatory. The certificate may be delivered to the secretary of state for

1	filing as of any specified date, and, if specified upon such delivery, as of any given
2	time on such date, within thirty days after the date of delivery.
3	* * *
4	C.(1) Such a change may be made by a foreign nonprofit corporation by
5	filing with the secretary of state:
6	* * *
7	(b) An application for incorporation under this Chapter, signed by an officer
8	of the corporation and acknowledged by the officer who signed it, setting forth the
9	jurisdiction under the laws of which it is incorporated and the number of issued
10	shares of each class of its authorized stock, if any, or its number of members. The
11	secretary of state may prescribe and furnish forms for the application of
12	incorporation, and if the secretary of state so requires, use of the forms is mandatory.
13	* * *
14	§250. Voluntary proceedings for dissolution; authorization; appointment of
15	liquidators
16	* * *
17	C. The members or incorporators authorizing the dissolution may authorize
18	liquidation of the affairs of the corporation out of court, by appointment of one or
19	more liquidators to conduct the liquidation, but the appointment shall not be
20	operative until:
21	* * *
22	(2) A certificate that the dissolution has been authorized in accordance with
23	this Section, setting forth the manner of such authorization, has been signed by an
24	officer of the corporation, acknowledged by the officer who signed it, and filed with
25	the secretary of state, who, after all fees and charges have been paid as required by
26	law, shall record the same in his office and endorse thereon the date of filing thereof
27	with him. The secretary of state may prescribe and furnish forms for the certificate,
28	and if the secretary of state so requires, use of the forms is mandatory.
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1	§250.1.	Dissolution	by affidavit

A.(1) In addition to all other methods of dissolution, if the corporation is not doing business and owes no debts, it may be dissolved by filing an affidavit with the secretary of state executed by the shareholders or by the incorporator if no shares have been issued, attesting to such facts and requesting that the corporation be dissolved. Thereafter, the shareholders or the incorporator if no shares have been issued shall be personally liable for any debts or claims, if any, against the corporation in proportion to their ownership in the shares of the corporation.

(2) The secretary of state may prescribe and furnish forms for the affidavit, and if the secretary of state so requires, use of the forms is mandatory.

* * *

§256. Certificate of dissolution; assets omitted from liquidation; post-dissolution proceedings

A. When a corporation has been liquidated completely:

15 * * *

(2) If the proceeding is out of court, the liquidator shall sign and acknowledge a certificate stating that the corporation has been liquidated and is dissolved. The secretary of state may prescribe and furnish forms for the certificate, and if the secretary of state so requires, use of the forms is mandatory.

20 * * *

§257. Termination of proceedings for dissolution

22 * * *

B.(1) At any time before the corporate existence ceases, a voluntary proceeding for dissolution may be terminated by such affirmative vote of the members as was required to commence the proceeding, given at a special meeting called by the liquidator or the board of directors, the notice of which set forth consideration of termination of the proceeding as a purpose of the meeting. Certificates of such action shall be signed by an officer of the corporation and acknowledged by the officer who signed them.

1	(2) The secretary of state may prescribe and furnish forms for the certificate,
2	and if the secretary of state so requires, use of the forms is mandatory.
3	(3) One certificate shall be filed with the secretary of state, who, after all fees
4	and charges have been paid as required by law, shall file the same in his office and
5	endorse thereon the date of filing thereof with him. One certificate shall be filed for
6	record in the office of the recorder of mortgages of the parish in which the
7	corporation's registered office is located, and one certificate shall be filed with the
8	court, if the dissolution is under the supervision of the court.
9	* * *
10	§262.1. Failure to file annual reports; revocation and reinstatement of articles;
11	limitation on authority to do business with the state
12	* * *
13	E.(1) The certificate of incorporation and articles of incorporation shall be
14	reinstated upon the filing, with the secretary of state and within three years from the
15	effective date of the revocation, of an application of reinstatement, signed and
16	acknowledged by an officer of the corporation, accompanied by a reinstatement fee
17	and a current annual report. The secretary of state may prescribe and furnish forms
18	for the reinstatement and annual report, and if the secretary of state so requires, use
19	of the forms is mandatory. However, if a suit for liquidation or receivership has been
20	filed at the time the reinstatement is applied for, then the unanimous written consent
21	to the reinstatement by the shareholders, certified by the corporation's secretary to
22	contain the signatures of all of the shareholders, must also be filed with the
23	application for reinstatement.
24	* * *
25	§304. Application for certificate of authority
26	A. Application by a foreign corporation to procure a certificate of authority
27	shall be made to the secretary of state and shall set forth:
28	* * *

(11)(a) If the corporation contracts with the state, a statement acknowledging such contract shall be filed with the secretary of state, and . The secretary of state may prescribe and furnish forms for such statement, and if the secretary of state so requires, use of the forms is mandatory. The statement shall include the names and addresses of all persons or corporate entities who hold an ownership interest of five percent or more in the corporation or who hold by proxy the voting power of five percent or more in the corporation and, if anyone is holding stock in his own name that actually belongs to another, the name of the person for whom held, including stock held pursuant to a counterletter. The statement acknowledging a state contract and ownership and voting interest shall be duly acknowledged, or executed by authentic act.

* * *

§307.1. Certificate of correction by a foreign corporation

Whenever the original application for a certificate of authority or an application for an amended certificate of authority filed with the secretary of state under any provision of this Chapter is an inaccurate record of the corporate action therein referred to, or is defectively or erroneously executed or acknowledged, such instrument may be corrected by filing with the secretary of state a certificate of correction. The secretary of state may prescribe and furnish forms for filing the certificate of correction, and if the secretary of state so requires, use of the forms is mandatory. The certificate of correction shall specify the inaccuracy or defect to be corrected and shall set forth that portion of the instrument in corrected form. A certificate of correction shall be executed in the name of the corporation by any officer authorized by resolution or consent of the board of directors.

§308. Registered agent; registered office; principal business establishment; keeping of records by foreign corporation

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1	G. The secretary of state may prescribe and furnish forms for filing the
2	statement of change and agent resignation, and if the secretary of state so requires,
3	use of the forms is mandatory.
4	§309. Annual report
5	* * *
6	C. The secretary of state may prescribe and furnish forms for filing the
7	annual report, and if the secretary of state so requires, use of the forms is mandatory.
8	§312. Withdrawal
9	* * *
10	C.(1) Two copies of such The application for withdrawal shall be delivered
11	to the secretary of state. If the secretary of state finds that such application conforms
12	to the provisions of this Chapter, he shall, when all fees, charges, taxes,
13	unemployment compensation contributions, penalties, and interest have been paid
14	as required by law and evidenced by certificates of the secretary of the Department
15	of Revenue and the administrator of Louisiana Employment Security Law:
16	(a) Endorse on each application the word "Filed", and the month, day, and
17	year of the filing thereof. Issue a filed copy of the application endorsed with the
18	month, day, and year of filing.
19	(b) File one the application in his office.
20	(c) Issue a certificate of withdrawal to which he shall affix the other
21	application.
22	(2) The certificate of withdrawal, together with an application for withdrawal
23	affixed thereto and the filed copy of the application for withdrawal, issued by the
24	secretary of state, shall be returned to the corporation or its representative. Upon the
25	issuance of such certificate of withdrawal, the authority of the corporation to transact
26	business in this state shall cease.
27	§312.1. Termination of withdrawal proceedings
28	At any time before the certificate of withdrawal is issued by the secretary of
29	state pursuant to R.S. 12:312, withdrawal proceedings may be terminated by

delivering to the secretary of state a request that withdrawal proceedings be terminated. The request shall be signed by any officer of the corporation. The secretary of state may prescribe and furnish forms for filing the request to terminate withdrawal proceedings, and if the secretary of state so requires, use of the forms is mandatory. After all fees and charges have been paid as required by law, the secretary of state shall place the request to terminate withdrawal proceedings on file in his office. The secretary of the Department of Revenue and the administrator of Louisiana Employment Security Law shall be notified by the secretary of state of the termination of withdrawal proceedings.

§313. Revocation of certificate of authority

* * *

D.(1) The certificate of authority of a foreign corporation to transact business in this state may be suspended by the secretary of state when, according to the records of his office, such foreign corporation is not in compliance with Paragraphs Paragraph (A)(1), (2), (3), or (4) of Subsection A of this Section and the secretary of state is authorized to revoke the suspension where the failure to comply with said the Paragraphs has been remedied by compliance.

Before the certificate of authority of a foreign corporation is suspended under the provisions of this Subsection, any corporation having failed to comply with such Paragraphs, according to the records of the office of the secretary of state, shall be notified in writing at its last known address of such noncompliance, and the notice shall afford any such corporation fifteen days from the receipt of the written notice to comply with Paragraphs (1), (2), (3), or (4) of Subsection A of this Section, or to show cause why the written notice should not have been given.

The secretary of state is authorized to hold hearings and take evidence where the corporation undertakes to show cause why its certificate of authority should not be suspended and to make an order suspending the certificate of authority in the light of such evidence where the order is justified according to same. The order shall be recorded in the archives of his office.

1	Where notice of noncompliance has been furnished as provided in this
2	Subsection and no showing or reply has been made within the fifteen day period
3	allowed, it shall be presumed that the corporation has failed to comply with
4	Paragraphs (1), (2), (3), or (4) of Subsection A of this Section and the secretary of
5	state may suspend the certificate of authority of any such corporation.
6	(2) The secretary of state shall give the corporation at least sixty days written
7	notice of the secretary's intention to suspend the corporation's certificate of authority.
8	The notice shall be mailed to the corporation's last known address by United States
9	<u>mail.</u>
10	(3) In the event any such corporation thereafter complies with the
11	requirements of said paragraphs, Paragraph (A)(1), (2), (3), or (4) of this Section, or
12	shows that it was already in compliance with same, the secretary of state is
13	authorized to revoke any suspension issued by him in respect to said the corporation
14	and to restore same the corporation to good standing and record same in the archives
15	of his office.
16	(4) If a corporation's certificate of authority is suspended for failure to file
17	its annual report within the time required by this Chapter as referenced in Paragraph
18	(A)(1) of this Section, and has been suspended for six months or more, the secretary
19	of state shall revoke the suspension only if the required annual report is accompanied
20	by a certificate of corporate existence or a certificate of good standing, not a certified
21	copy of the corporation's articles or certificate of incorporation, from an authorized
22	official of the jurisdiction of its incorporation bearing an original signature and dated
23	within ninety days of its submission.
24	Where any order of suspension is made under this Subsection, the secretary
25	of state shall forward a certified copy of the order to the corporation's last known
26	address by certified mail, return receipt requested. Similar notice shall be furnished
27	in the event of revocation of such suspension.

1	(5) The provisions of R.S. 12:314 shall be applicable to any suspension made
2	pursuant to this Subsection.
3	* * *
4	§492. Qualification and restrictions and procedural rights
5	* * *
6	C. Any such trust shall be subject to such applicable provisions of law, now
7	or hereafter enacted, with respect to domestic and foreign corporations, respectively,
8	as relate to the issuance of securities, filing of required statements or reports, service
9	of process, general grants of power to act, right to sue and be sued, limitation of
10	individual liability of shareholders, rights to acquire, mortgage, sell, lease, operate
11	and otherwise to deal in real and personal property, and other applicable rights, and
12	duties existing under the statutes of this state in a manner similar to those applicable
13	to domestic and foreign corporation, except that the provision of R.S. 12:23 12:1-401
14	and R.S. 12:204 relative to the use of the word "Trust" shall not be applicable to real
15	estate investment trusts, as herein defined.
16	* * *
17	§1304. Formation
18	A. One or more persons capable of contracting may form a limited liability
19	company by filing the articles of organization and the initial report with the secretary
20	of state. The articles of organization and initial report may be delivered to the
21	secretary of state in advance for filing as of any specified date and, if specified upon
22	such delivery, as of any given time on such date within thirty days after the date of
23	delivery. The secretary of state may prescribe and furnish forms for filing the
24	articles of organization and initial report, and if the secretary of state so requires, use
25	of the forms is mandatory.
26	* * *
27	§1307. Reservation of name; transfer of reserved name
28	* * *

1	D. The secretary of state may prescribe and furnish forms to reserve the
2	name and transfer the name, and if the secretary of state so requires, use of the forms
3	is mandatory.
4	§1308. Registered office and registered agent
5	* * *
6	G. The secretary of state may prescribe and furnish forms to file the notice
7	of change and agent resignation, and if the secretary of state so requires, use of the
8	forms is mandatory.
9	§1308.1. Annual report
10	* * *
11	B. The secretary of state may prescribe and furnish forms to file the annual
12	report, and if the secretary of state so requires, use of the forms is mandatory.
13	B.C. The provisions of this Section shall apply to any domestic limited
14	liability company organized on or after July 7, 1992.
15	§1308.2. Failure to file annual report; revocation and reinstatement of articles;
16	limitation on authority to do business with the state
17	* * *
18	C.(1) The articles of organization shall be reinstated if each of the following
19	is filed with the secretary of state within three years of the effective date of the
20	revocation:
21	(a)(i) An application for reinstatement, signed and acknowledged by a
22	member or manager.
23	(ii) The secretary of state may prescribe and furnish forms for filing the
24	application for reinstatement, and if the secretary of state so requires, use of the
25	forms is mandatory.
26	(iii) If a suit for liquidation or receivership of the limited liability company
27	has been filed at the time at which such application is made, the application shall be
28	accompanied by a document indicating the unanimous written consent to the
29	reinstatement by all members or managers.

1	(iv) The limited liability company shall certify the signatures of all managers
2	or members on such document.
3	(b) The current annual report of the limited liability company.
4	(c) The fee for reinstatement proceedings authorized by R.S. 12:1364(A)(1).
5	* * *
6	§1308.3. Conversion of state of organization
7	* * *
8	C. The domestic or foreign limited liability company seeking conversion
9	shall file with the secretary of state a written request for conversion of the state of
10	organization. If the company is manager-managed, the request shall be executed by
11	a manager of the company. The request for conversion shall be acknowledged by
12	at least one of the persons who signed it or may be executed by authentic act. The
13	secretary of state may prescribe and furnish forms for filing the request for
14	conversion, and if the secretary of state so requires, use of the forms is mandatory.
15	If the company is member-managed, the request shall be executed by a member of
16	the company. The request shall contain all of the following:
17	* * *
18	§1309. Amendment of articles of organization
19	* * *
20	B. After an amendment has been adopted as provided by this Chapter,
21	articles of amendment setting forth the amendment, the date, and manner of adoption
22	thereof shall be executed in the limited liability company's name by a manager of the
23	limited liability company, if management of the limited liability company is vested
24	in one or more managers pursuant to R.S. 12:1312, or by at least one member of the
25	limited liability company, if management of the limited liability company is reserved

to the members. The articles of amendment shall be acknowledged by at least one

of the persons who signed them or may be executed by authentic act. The secretary

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of state may prescribe and furnish forms for filing the amendment, and if the secretary of state so requires, use of the forms is mandatory.

* * *

§1310. Certificates of correction

5 * * *

F. The certificate of correction shall be executed by a manager of the limited liability company, if management of the limited liability company is vested in one or more managers pursuant to R.S. 12:1312, or by at least one member, if management of the limited liability company is reserved to the members. The certificate of correction shall be acknowledged by at least one of the persons who signed it or may be in the form of an authentic act. The certificate of correction shall be filed with the secretary of state, who, after all taxes, fees, and charges have been paid as required by law, shall record the certificate of correction in his office and endorse thereon the date and, if requested, the hour of the filing thereof with him. The secretary of state may prescribe and furnish forms for filing the certificate of correction, and if the secretary of state so requires, use of the forms is mandatory.

* * *

§1335.1. Dissolution by affidavit

A. In addition to all other methods of dissolution, if a limited liability company is no longer doing business, owes no debts, and owns no immovable property, it may be dissolved by filing an affidavit with the secretary of state executed by the members or by the organizer, if no membership interests have been issued, attesting to such facts and requesting that the limited liability company be dissolved. Thereafter, the members, or the organizer if no membership interests have been issued, shall be personally liable for any debts or other claims against the limited liability company in proportion to their ownership interest in the company. The secretary of state may prescribe and furnish forms for filing the affidavit, and if the secretary of state so requires, use of the forms is mandatory.

* * *

1 §1339. Articles of dissolution

2 * * *

B.(1) The articles of dissolution shall be signed by one or more managers, if management of the limited liability company is vested in one or more managers pursuant to R.S. 12:1312, or one or more members, if management of the limited liability company is reserved to the members, acknowledged by one of the persons executing the articles and filed with the secretary of state, who, after all fees and charges have been paid as required by law, shall record the same in his office and endorse thereon the date of filing thereof with him.

- (2) The secretary of state may prescribe and furnish forms for filing the articles of dissolution, and if the secretary of state so requires, use of the forms is mandatory.
- §1340. Certificate of dissolution; assets omitted from liquidation; post-dissolution proceedings
 - A. When a limited liability company has been liquidated completely:
- (1) One or more members or the liquidator shall sign and acknowledge a certificate stating that the limited liability company has been liquidated and is dissolved. The secretary of state may prescribe and furnish forms for filing the certificate, and if the secretary of state so requires, use of the forms is mandatory.

T T

§1349. Certificate of correction by a foreign limited liability company

A. Whenever the original application for a certificate of authority or an application for an amended certificate of authority filed with the secretary of state under any provision of this Chapter is an inaccurate record of the action therein referred to, or is defectively or erroneously executed or acknowledged, such instrument may be corrected by filing with the secretary of state a certificate of correction.

<u>B.</u> The certificate of correction shall specify the inaccuracy or defect to be corrected and shall set forth that portion of the instrument in corrected form.

1	<u>C.</u> A certificate of correction shall be executed in the name of the limited
2	liability company by a manager, if management of the limited liability company is
3	vested in one or more managers, or a member, if management is reserved to the
4	members of the limited liability company.
5	D. The secretary of state may prescribe and furnish forms for filing the
6	certificate of correction, and if the secretary of state so requires, use of the forms is
7	mandatory.
8	§1350. Registered agent; registered office; principal business establishment;
9	keeping of records by foreign limited liability company
10	* * *
11	G. The secretary of state may prescribe and furnish forms for filing the
12	statement of change and agent resignation, and if the secretary of state so requires,
13	use of the forms is mandatory.
14	§1350.1. Annual report
15	* * *
16	B. The secretary of state may prescribe and furnish forms for filing the
17	annual report, and if the secretary of state so requires, use of the forms is mandatory.
18	B. C. The provisions of this Section shall apply to any foreign limited
19	liability company qualified on or after July 7, 1992.
20	* * *
21	§1352. Termination of withdrawal proceedings
22	At any time before the certificate of withdrawal is issued by the secretary of
23	state pursuant to R.S. 12:1351, withdrawal proceedings may be terminated by
24	delivering to the secretary of state a request that withdrawal proceedings be
25	terminated. The request shall be signed by a manager, if management of the limited
26	liability company is vested in one or more managers, or a member, if management
27	is reserved to the members. The secretary of state may prescribe and furnish forms
28	for filing the request to terminate withdrawal proceedings, and if the secretary of
29	state so requires, use of the forms is mandatory. After all fees and charges have been

paid as required by law, the secretary of state shall place the request to terminate withdrawal proceedings on file in his office and shall acknowledge receipt of the request by returning the application for withdrawal forms to the limited liability company or its representative. The secretary of the Department of Revenue and the administrator of Louisiana Employment Security Law shall be notified by the secretary of state of the termination of withdrawal proceedings.

§1353. Revocation or suspension of certificate of authority; limitation on authority to do business with the state

* * *

D.(1) The certificate of authority of a foreign limited liability company to transact business in this state may be suspended by the secretary of state when, according to the records of his office, such foreign limited liability company is not in compliance with a requirement of this Chapter or other relevant law as stated in Paragraphs (A)(1) through (4) of Subsection A of this Section. The secretary of state is authorized to revoke the suspension when any such failure to comply has been remedied by compliance.

(2) Before the certificate of authority of a foreign limited liability company is suspended under the provisions of this Subsection, any limited liability company having failed to comply with any such requirement, according to the records of the office of the secretary of state, shall be notified in writing at its last known address of such noncompliance, and the notice shall afford any such limited liability company fifteen days from the receipt of the written notice to comply with any such requirement or to show cause why the written notice should not have been given. The secretary of state is authorized to hold hearings and take evidence when the limited liability company undertakes to show cause why its certificate of authority should not be suspended and to make an order suspending the certificate of authority in the light of such evidence when the order is justified. The order shall be recorded in the archives of the secretary of state.

(3) When notice of noncompliance has been furnished as provided in this
Subsection and no showing or reply has been made within the fifteen-day period
allowed, it shall be presumed that the limited liability company has failed to comply
with a requirement of this Chapter or other relevant law as stated in Paragraphs (1)
through (4) of Subsection A of this Section and the secretary of state may suspend
the certificate of authority of any such limited liability company. The secretary of
state shall give the limited liability company at least sixty days written notice of the
secretary's intention to suspend the limited liability company's certificate of
authority. The notice shall be mailed to the limited liability company's last known
address by United States mail. In the event any such limited liability company
thereafter complies with any such requirement, or shows that it was already in
compliance with same, the secretary of state is authorized to revoke any suspension
issued by him in respect to such limited liability company, to restore same to good
standing, and to record same in the archives of his office. <u>If a limited liability</u>
company's certificate of authority is suspended for failure to file its annual report
within the time required by this Chapter as referenced in Paragraph (A)(9) of this
Section, and has been suspended for six months or more, the secretary of state shall
revoke the suspension only if the required annual report is accompanied by a
certificate of existence or a certificate of good standing, not a certified copy of the
limited liability company's articles or certificate of organization, from an authorized
official of the jurisdiction of its organization bearing an original signature and dated
within ninety days of its submission. Where any order of suspension is made under
this Subsection, the secretary of state shall forward a certified copy of the order to
the limited liability company's last known address by certified mail, return receipt
requested. Similar notice shall be furnished in the event of revocation of such
suspension.
* * *
§1360. Certificate of merger or consolidation

1	B.(1) The secretary of state may prescribe and furnish forms for filing the
2	agreement and certificate of merger, and if the secretary of state so requires, use of
3	the forms is mandatory.
4	(2) The secretary of state, after all taxes, fees, and charges have been paid
5	as required by law, shall record the agreement, or certificate in lieu thereof, in his
6	office, endorse thereon the date and, if requested the hour of filing thereof with him,
7	and issue a certificate of merger or consolidation, which shall recite the names of all
8	of the merging and consolidating constituent entities, the name of the state or country
9	under the laws of which each was formed, whether a merger or consolidation is
10	involved, the name of the surviving or new entity, the name of the state or country
11	under the laws of which the new entity is formed, the date, and, if endorsed on the
12	agreement or certificate, the hour of filing of the agreement or certificate with him,
13	and the effective date, and time, of the merger or consolidation, if stated in the
14	agreement or certificate.
15	(2)(3) The agreement or certificate may be delivered to the secretary of state
16	in advance for filing as of any specified date and, if specified upon such delivery, as
17	of any given time on such date, within thirty days after the date of delivery. A
18	duplicate original of the certificate of merger or consolidation issued by the secretary
19	of state shall, within thirty days after issuance of the certificate, be filed for record
20	in the conveyance records of each parish in this state in which any of the constituent
21	entities has immovable property, title to which will be transferred as a result of the
22	merger or consolidation.
23	* * *
24	§1702. Electronic mail addresses and short message service numbers;
25	confidentiality Confidentiality of information
26	A. Any electronic mail address, internet protocol address number, or short
27	message service number submitted to or captured by the secretary of state pursuant
28	to the provision of this Title shall be confidential and shall not be disclosed by the

secretary of state or any employee or official of the Department of State.

B. Computer system or program information, including software, related menus, flow charts, network diagrams, user names, non-public uniform resource locators, database object names, computer names, device identifiers and materials, prompts, dialogues, operating and instruction manuals, programming materials or instructions, any other computer operating or support materials relating to the secretary of state's computer systems and equipment, and any information contained within the secretary of state's computer systems which if disclosed may impair the security of the secretary of state's information technology infrastructure shall be confidential and shall not be disclosed by the secretary of state or any employee or official of the Department of State.

<u>C.</u> The provisions of Subsection A of this Section shall not prohibit the disclosure of electronic mail addresses, internet protocol address numbers, or short message service numbers by the secretary of state or any employee or official of the Department of State to an agency, official, or employee of state government or of a political subdivision of the state in the course of the interaction of the agency, official, or employee with the Department of State. An agency, official, or employee that receives electronic mail addresses, internet protocol address numbers, or short message service numbers pursuant to this Subsection shall use the electronic mail addresses, internet protocol address numbers only for the governmental purposes for which the information was submitted or captured, shall not disclose the electronic mail addresses, internet protocol address numbers, or short message service numbers only for the governmental purposes for which the information was submitted or captured, shall not disclose the electronic mail addresses, internet protocol address numbers, or short message service numbers, and shall maintain the confidentiality of the electronic mail addresses, internet protocol address numbers, and short message service numbers.

25 * * *

1	§1804. Election of status; corporate name
2	A. A business corporation incorporated in accordance with R.S. 12:21 12:1-
3	201 et seq. may elect to be a benefit corporation under this Chapter by stating in its
4	articles that it is a benefit corporation subject to this Chapter.
5	* * *
6	Section 3. R.S. 51:211(A), 215.1(A), and 219 are hereby amended and reenacted and
7	R.S. 51:217(C) is hereby enacted to read as follows:
8	§211. Definitions
9	A. The term "trademark" as used herein means any work word, name,
10	symbol, or device or any combination thereof adopted and used by a person to
11	identify goods made or sold by him and to distinguish them from goods made or sold
12	by others.
13	* * *
14	§215.1. Certificate of correction
15	A.(1) Whenever the original certificate of registration filed with the secretary
16	of state under any provision of this Chapter is an inaccurate record of the trade name
17	action, trademark action, or service mark action therein referred to, or is defectively
18	or erroneously executed or acknowledged, such instrument may be corrected by
19	filing with the secretary of state a certificate of correction which shall be executed,
20	acknowledged, filed, and recorded in accordance with this Section.
21	(2) The certificate of correction shall specify the inaccuracy or defect to be
22	corrected and shall set forth that portion of the instrument in correct form.
23	(3) The secretary of state may prescribe and furnish forms for filing the
24	certificate of correction, and if the secretary of state so requires, use of the forms is
25	mandatory.
26	* * *
27	§217. Assignment
28	* * *

1	C. The secretary of state may prescribe and furnish forms for assigning a
2	trade name, trademark, and service mark, and if the secretary of state so requires, use
3	of the forms is mandatory.
4	* * *
5	§219. Cancellation
6	A. The secretary of state shall cancel from the register:
7	(1) After one year from July 31, 1968 all registrations under prior acts which
8	are more than ten years old and not renewed in accordance with this Subpart;.
9	(2) Any registration concerning which the secretary of state shall receive a
10	voluntary request for cancellation thereof from the registrant or the assignee of
11	record;.
12	(3) All registrations granted under pursuant to this Subpart and not renewed
13	in accordance with the provisions hereof;.
14	(4) Any registration concerning which a court of competent jurisdiction shall
15	find <u>:</u>
16	(a) That the registered mark has been abandoned.
17	(b) That the registrant is not the owner of the mark.
18	(c) That the registration was granted improperly;.
19	(d) That the registration was obtained fraudulently;.
20	(e) That the registered mark is so similar, as to be likely to cause confusion
21	or mistake or to deceive, to a mark registered by another person in the United States
22	Patent Office, prior to the date of the filing of the application for registration by the
23	registrant hereunder, and not abandoned; provided, however, that should the
24	registrant prove that he is the owner of a concurrent registration of his mark in the
25	United States Patent Office covering an area including this state, the registration
26	hereunder shall not be cancelled.
27	(5) When a court of competent jurisdiction shall order cancellation of a
28	registration on any ground.

1 B. The secretary of state may prescribe and furnish forms for filing a 2 voluntary cancellation of registration in accordance with Subsection A of this 3 Section, and if the secretary of state so requires, use of the forms is mandatory. 4 Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature 5 6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If 7 vetoed by the governor and subsequently approved by the legislature, this Act shall become 8 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 297 Original

2019 Regular Session

Howard

Abstract: Relative to the secretary of state's office, provides filing and withdrawal procedures, provides for revocation or suspension of certificate of authority, provides for conversion of state of organization requests, and provides for confidentiality of information.

<u>Proposed law</u> allows the secretary of state's office to prescribe and furnish forms for certain filings.

<u>Proposed law</u> allows the secretary of state's office to mandate use of forms for certain filings.

<u>Proposed law</u> provides that the failure to include the taxpayer identification number of the partnership, when filing a statement of registry, shall not invalidate nor cause the secretary of state to reject the contract.

<u>Present law</u> requires a corporation to deliver two copies of an application for withdrawal to the secretary of state. <u>Proposed law</u> reduces the number of copies the corporation must deliver from two to one.

<u>Present law</u> requires the secretary of state to provide written notice to a foreign corporation or limited liability company before the certificate of authority is suspended, and the notice shall afford the corporation 15 days to comply with <u>present law</u> or to show cause why the written notice should not have been given. <u>Present law</u> authorizes the secretary of state to hold hearings and take evidence when the corporation or limited liability company undertakes to show cause why the written notice should not have been given. <u>Present law</u> allows the secretary of state to suspend the certificate of authority of any such corporation or limited liability company, if the corporation or limited liability company does not reply within the 15 day period. <u>Proposed law</u> repeals <u>present law</u>.

<u>Proposed law</u> requires the secretary of state to provide at least 60 days written notice of the secretary of state's intention to suspend a corporation's or limited liability company's certificate of authority.

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

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<u>Proposed law</u> provides that if a corporation's or limited liability company's certificate of authority is suspended for failure to file its annual report within the time required by <u>present law</u>, and has been suspended for six months or more, the secretary of state shall revoke the suspension only if the required annual report is accompanied by a certificate of existence or a certificate of good standing.

<u>Present law</u> requires that when any order of suspension is made, the secretary of state shall forward a certified copy of the order to the corporation and provide similar notice in the event of revocation of such suspension. Proposed law repeals present law.

<u>Proposed law</u> requires a request for conversion of state of organization to be acknowledged by at least one of the persons who signed or to execute it by authentic act.

<u>Present law</u> provides that electronic mail addresses and short message service numbers submitted to or captured by the secretary of state pursuant to <u>present law</u> shall be confidential and not be disclosed except in the course of interactions provided for in <u>present law</u>. <u>Proposed law</u> adds internet protocol address numbers to this list of confidential items.

<u>Proposed law</u> provides a list of items relating to the secretary of state's computer systems and equipment shall be confidential and shall not be disclosed by the secretary of state or any employee or official of the Dept. of State.

Effective upon signature of governor or lapse of time of gubernatorial action.

(Amends R.S. 9:3403(A), 3409(B) and (C), 3422(A), 3427, 3428(B) and (C), 3432(F), and 3445(B), R.S.12:1-121(B), 1-1007(C), 205(A) and (E)(1), 205.1(B) and (C), 238(B), 239.1(A), 241, 243(F)(1) and (H), 247.1 (B)(2) and (C)(1)(b), 250(C)(2), 250.1(A), 256(A)(2), 257(B), 262.1(E)(1), 304(A)(11)(a), 307.1, 312(C), 312.1, 313(D), 492(C), 1304(A), 1308.1(B), 1308.2(C)(1), 1308.3(C)(introductory paragraph), 1309(B), 1310(F), 1335.1(A), 1339(B), 1340(A)(1), 1349, 1350.1(B), 1352, 1353(D), 1360(B), 1702, and 1804(A), and R.S. 51:211(A), 215.1(A), and 219; Adds R.S. 9:3409(D) and 3428(D), R.S. 12:205.1(D), 236(F), 243(G)(5), 308(G), 309(C), 1307(D), 1308(G), 1308.1(C), 1350(G), and 1350.1(C), and R.S. 51:217(C))