2017 Regular Session

ACT No. 367

HOUSE BILL NO. 211

BY REPRESENTATIVE FOIL

1	AN ACT
2	To amend and reenact R.S. 12:1-401(C)(introductory paragraph) and (1) and (F), 1-
3	403(B)(2), 204(B)(introductory paragraph) and (1), 236(C)(1)(a), 308(A)(1),
4	1306(A)(3)(introductory paragraph) and (a) and (F), 1308(A)(2)(b), 1350(A)(1)(c)
5	and (B)(2) and R.S. 51:215(A)(1), to enact R.S. 12:1308.3(C)(8)(c), and to repeal
6	R.S. 12:315 and 1356, relative to regulations by the secretary of state with respect
7	to filings of business entities; to provide relative to corporations, partnerships, and
8	certain limited liability companies; to provide relative to agents for service of
9	process; to repeal certain penalties applicable to foreign limited liability companies;
10	to provide technical changes; and to provide for related matters.
11	Be it enacted by the Legislature of Louisiana:
12	Section 1. R.S. 12:1-401(C)(introductory paragraph) and (1) and (F), 1-403(B)(2),
13	204(B)(introductory paragraph) and (1), 236(C)(1)(a), 308(A)(1), 1306(A)(3)(introductory
14	paragraph) and (a) and (F), 1308(A)(2)(b), and 1350(A)(1)(c) and (B)(2) are hereby
15	amended and reenacted and R.S. 12:1308.3(C)(8)(c) is hereby enacted to read as follows:
16	§1-401. Corporate name
17	* * *
18	C. A corporation may apply to the secretary of state for authorization to use
19	a name in its filings with the secretary of state that is not distinguishable from one
20	or more of the names described in Subsection B of this Section. The secretary of
21	state shall authorize the use of the name applied for if either of the following occur:
22	(1) The other registrant consents to the use in writing and submits an
23	undertaking in a form satisfactory to the secretary of state the document required by
24	<u>law</u> to change its name to a name one that is distinguishable from the name of the

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

1	applying corporation, effective no later than the time that the applying corporation
2	will begin to use the registrant's former name.
3	* * *
4	F. If the secretary of state receives for filing articles of incorporation that
5	include in the corporate name the word "bank", "banker", "banking", "savings", "safe
6	deposit", "trust", "trustee", "building and loan", "homestead", "credit union", or any
7	other word of similar import, the secretary of state shall not file the articles of
8	incorporation until the secretary of state receives satisfactory evidence that written
9	notice of the proposed use of that name was delivered to the office of financial
10	institutions at least ten fourteen days earlier.
11	* * *
12	§1-403. Registered name
13	* * *
14	B. A foreign corporation registers its corporate name, or its corporate name
15	with any addition authorized by R.S. 12:303(A)(3), by delivering to the secretary of
16	state for filing an application which does both of the following:
17	* * *
18	(2) Is accompanied by a certificate of existence, or a document of similar
19	import, from the state or country of incorporation which is dated within ninety days
20	of receipt by the secretary of state.
21	* * *
22	§204. Corporate name
23	* * *
24	B. As used in this Subsection, the term "corporation" includes nonprofit
25	corporations, business corporations, and foreign corporations, and partnerships. The
26	corporate name shall be distinguishable from a name reserved pursuant to R.S.
27	12:23(G) R.S. 12:1-402(A) and shall be distinguishable from the name of any other
28	corporation, limited liability company, partnership, or trade name registered with the
29	secretary of state unless any of the following Paragraphs apply:

1	(1) The other corporation is about to change its name; or to cease doing
2	business; or is being liquidated; or, if a foreign corporation, is about to withdraw
3	from doing business in this state; and the written consent of the other corporation to
4	the adoption of its name, or a nondistinguishable name, has been given and is filed
5	with the articles. The other registrant consents to the use of the name in writing and
6	submits the document required by law to change its name to one that is
7	distinguishable from the name of the applying corporation, effective no later than the
8	time that the applying corporation will begin to use the registrant's former name.
9	* * *
10	§236. Registered office and agent
11	* * *
12	C.(1)(a) Every corporation shall continuously maintain in this state at least
13	one registered agent, which agent may be either any of the following:
14	(i) An individual who is a resident of this state,.
15	(ii) A partnership which is authorized to practice law in this state, or.
16	(iii) A business corporation, or a limited liability company, foreign
17	corporation, or foreign limited liability company authorized to transact business in
18	this state, which is authorized by its articles or certificate of incorporation or
19	organization to act as the agent of a corporation for service of process, and which has
20	on file with the secretary of state a certificate or amended certificate setting forth the
21	names of at least two individuals at its address in this state, each of whom is
22	authorized to receive any process served on it as such agent.
23	* * *
24	§308. Registered agent, registered office and principal business establishment,
25	keeping of records by foreign corporation
26	A. Each foreign corporation authorized to transact business in this state shall
27	have and continuously maintain in this state:
28	(1) At least one registered agent, which agent may be either any of the

following:

29

1	(a) an An individual resident in this state whose business office is identical
2	with the corporation's registered office,.
3	(b) an An individual attorney or a partnership which is authorized to practice
4	law in this state , or .
5	(c) a A domestic corporation, or a domestic limited liability company, foreign
6	corporation, or foreign limited liability company authorized to transact business in
7	this state, which has a business office identical with such registered office, which is
8	authorized by its articles or certificate of incorporation or organization to act as the
9	agent of a corporation for service of process, and which has on file with the secretary
10	of state both a certificate or amended certificate setting forth the names of at least
11	two individuals in such office, each of whom is authorized to receive any process
12	served on it as such agent and a notarized affidavit of acknowledgement and
13	acceptance signed by each registered agent. The failure to attach a notarized
14	affidavit of acknowledgement and acceptance as required by this Section shall not
15	be a defense to proper service of process on the corporation.
16	* * *
17	§1306. Name
18	A. The name of each limited liability company as set forth in its articles of
19	organization:
20	* * *
21	(3) Shall be distinguishable from the name of any corporation, partnership,
22	or other limited liability company organized under the laws of this state, any foreign
23	corporation, partnership, or limited liability company registered or qualified to do
24	business in this state, any name which is reserved under R.S. 12:1307 or R.S.
25	12:23(G) R.S. 12:1-402(A), or any trade name registered with the secretary of state,
26	unless any of the following Paragraphs apply:
27	(a) The corporation or other limited liability company is about to change its
28	name, to cease doing business, or is being liquidated, or, if a foreign corporation or
29	limited liability company, is about to withdraw from doing business in this state, and

the written consent of the corporation or other limited liability company to the

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adoption of its name or a nondistinguishable name has been given and is filed with the articles of organization The other registrant consents to the use of the name in writing and submits the document required by law to change its name to one that is distinguishable from the name of the applying corporation or limited liability company, effective no later than the time that the applying corporation or limited liability company will begin to use the registrant's former name.

* * *

F. If a limited liability company seeking issuance of a certificate of organization in Louisiana includes in its name the words "bank", "banker", "banking", "savings", "safe deposit", "trust", "trustee", "building and loan", "homestead", or "credit union", the secretary of state shall require written approval from the commissioner of the office of financial institutions dated not less than ten fourteen days prior to the issuance of the certificate of organization.

* * *

§1308. Registered office and registered agent

A. Each limited liability company shall continuously maintain:

17 * * *

(2) At least one registered agent who shall be one of the following:

* * *

(b) A partnership or professional law corporation, which is authorized to practice law in this state, or a domestic corporation, domestic limited liability company, or foreign corporation, or foreign limited liability company authorized to transact business in this state, which is authorized by its articles or certificate of incorporation or organization to act as the agent of a limited liability company for service of process and which has on file with the secretary of state a certificate setting forth the name of at least two individuals at its address in this state, each of whom is authorized to receive any process served upon it as such agent. Legal process and other notices or demands may be served on the limited liability company by service upon this agent and, if the agent is a partnership, upon any partner.

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1	§1308.3. Conversion of state of organization
2	* * *
3	C. The domestic or foreign limited liability company seeking conversion
4	shall file with the secretary of state a written request for conversion of the state of
5	organization. Such request shall contain all of the following:
6	* * *
7	(8) If the limited liability company is converting its state of organization
8	from another state to this state:
9	* * *
10	(c) A copy of its articles of organization which are in compliance with the
1	requirements of R.S. 12:1305, when the written request for conversion is filed with
12	the secretary of state.
13	* * *
14	§1350. Registered agent; registered office and principal business establishment;
15	keeping of records by foreign limited liability company
16	A. Each foreign limited liability company authorized to transact business in
17	this state shall have and continuously maintain in this state:
18	(1) At least one registered agent, which agent shall be one of the following:
19	* * *
20	(c) A domestic corporation, domestic limited liability company, or a foreign
21	corporation, or foreign limited liability company authorized to transact business in
22	this state, which has a business office identical to such registered office, and which
23	is authorized by its articles or certificate of incorporation or organization to act as an
24	agent of a limited liability company for service of process, and which has on file with
25	the secretary of state a certificate setting forth the names of at least two individuals
26	at its address in this state, each of whom is authorized to receive any process served
27	on it as such agent.
28	* * *

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1 (2) If its registered agent is an individual or a corporation, the address of its 2 principal registered office and the address of the business office of its registered 3 agent, as changed, shall be identical. 4 5 Section 2. R.S. 51:215(A)(1) is hereby amended and reenacted to read as follows: 6 §215. Certificate of registration 7 A.(1) Upon compliance by the applicant with the requirements of this 8 Subpart, if the secretary of state finds that the trade name is distinguishable from or 9 not the same as a trade name, limited liability company name, partnership name, or 10 corporate name already in use in this state, or that the trademark or service mark is 11 distinguishable from or not the same as a trademark or service mark already in use 12 in this state which is registered in the same class, the secretary of state shall cause 13 a certificate of registration to be issued and delivered to the applicant. 14 15 Section 3. R.S. 12:315 and 1356 are hereby repealed in their entirety. SPEAKER OF THE HOUSE OF REPRESENTATIVES PRESIDENT OF THE SENATE GOVERNOR OF THE STATE OF LOUISIANA

ENROLLED

HB NO. 211

APPROVED: ____