

2019 Regular Session

HOUSE BILL NO. 297

BY REPRESENTATIVES HOWARD AND FOIL

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

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

1 AN ACT

2 To amend and reenact R.S. 9:3403(A), 3409(B) and (C), 3422(A), 3427, 3428(B) and (C),

3 and 3445(B), R.S. 12:1-121(B), 1-1007(C), 205(A) and (E)(1), 205.1(B) and (C),

4 238(B), 239.1(A), 241, 243(F)(1) and (H), 247.1(B)(2) and (C)(1)(b), 250(C)(2),

5 250.1(A), 256(A)(2), 257(B), 262.1(E)(1), 304(A)(11)(a), 307.1, 312(C), 312.1,

6 313(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), and

18 3445(B) are hereby amended and reenacted and R.S. 9:3409(D) and 3428(D) are hereby

19 enacted to read as follows:

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.

10 * * *

11 §3409. Annual report

12 * * *

13 B. The secretary of state may prescribe and furnish forms for filing the
14 annual report.

15 B.C. Any partnership registered with the secretary of state prior to August
16 15, 1997, shall file an annual report on the next anniversary date of registration.

17 C.D. The provisions of this Section shall not apply to a partnership which
18 does not have a written agreement.

19 * * *

20 §3422. Registration

21 A.(1) For a foreign partnership to enjoy the rights, privileges and juridical
22 status of a Louisiana partnership, it must file for registry with the secretary of state
23 in the Central Registry for Contracts of Partnership created by R.S. 9:3401 a
24 statement containing all of the following information:

- 25 (a) The name and taxpayer identification number of the partnership;
- 26 (b) The jurisdiction of its formation;
- 27 (c) The designation of an agent for service of process within this state,
- 28 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.

17 (3) The failure to include the taxpayer identification number of the
18 partnership shall not invalidate nor cause the secretary of state to reject the contract.

19 ~~(2)~~(4) The articles of partnership shall not be filed with the registration
20 statement; however, by registering the partnership, the partnership agrees to furnish
21 a true copy of its articles of partnership to the secretary of state within thirty days of
22 his written request.

23 * * *

24 §3427. Termination

25 A duly registered foreign partnership may terminate its registration by written
26 notification to the secretary of state by a person who certifies that he is a partner of
27 the partnership and has the authority to terminate the registration. The secretary of
28 state may prescribe and furnish forms for filing the termination.

1 §3428. Annual report

2 * * *

3 B. The secretary of state may prescribe and furnish forms for filing the
4 annual report.

5 B.C. Any foreign partnership registered with the secretary of state prior to
6 August 15, 1997, shall file an annual report on the next anniversary date of
7 registration.

8 C.D. The provisions of this Section shall not apply to a partnership which
9 does not have a written agreement.

10 * * *

11 §3445. Certificate of merger or consolidation

12 * * *

13 B.(1) The secretary of state may prescribe and furnish forms for filing the
14 agreement and certificate of merger.

15 B.(1)(2) The secretary of state, after all taxes, fees, and charges have been
16 paid as required by law, shall record the agreement, or certificate in lieu thereof, in
17 his office, endorse thereon the date and, if requested, the hour of filing thereof with
18 him, and issue a certificate of merger or consolidation, which shall recite the names
19 of all of the merging and consolidating constituent entities, the name of the state or
20 country under the laws of which each was formed, whether a merger or consolidation
21 is involved, the name of the surviving or new entity, the name of the state or country
22 under the laws of which the new entity is formed, the date, and, if endorsed on the
23 agreement or certificate, the hour of filing of the agreement or certificate with him,
24 and the effective date and time of the merger or consolidation, if stated in the
25 agreement or certificate.

26 (2)(3) The agreement or certificate may be delivered to the secretary of state
27 in advance for filing as of any specified date and, if specified upon such delivery, as
28 of any given time on such date, within thirty days after the date of delivery. A
29 duplicate original of the certificate of merger or consolidation issued by the secretary

1 of state shall, within thirty days after issuance of the certificate, be filed for record
2 in the conveyance records of each parish in this state in which any of the constituent
3 entities has immovable property, title to which will be transferred as a result of the
4 merger or consolidation.

5 * * *

6 Section 2. R.S. 12:1-121(B), 1-1007(C), 205(A) and (E)(1), 205.1(B) and (C),
7 238(B), 239.1(A), 241, 243(F)(1) and (H), 247.1 (B)(2) and (C)(1)(b), 250(C)(2), 250.1(A),
8 256(A)(2), 257(B), 262.1(E)(1), 304(A)(11)(a), 307.1, 312(C), 312.1, 313(D), 492(C),
9 1304(A), 1308.1(B), 1308.2(C)(1), 1308.3(C)(introductory paragraph), 1309(B), 1310(F),
10 1335.1(A), 1339(B), 1340(A)(1), 1349, 1350.1(B), 1352, 1353(D), 1360(B), 1702, and
11 1804(A) are hereby amended and reenacted and R.S. 12:205.1(D), 236(F), 243(G)(5),
12 308(G), 309(C), 1307(D), 1308(G), 1308.1(C), 1350(G), and 1350.1(C) are hereby enacted
13 to read as follows:

14 §1-121. Forms

15 * * *

16 B. The secretary of state may prescribe and furnish ~~on request~~ forms for
17 other documents required or permitted to be filed by this Chapter ~~but their use is not~~
18 mandatory.

19 * * *

20 §1-1007. Restated articles of incorporation

21 * * *

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

29 * * *

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

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

8 * * *

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

19 * * *

20 §205.1. Annual report to secretary of state

21 * * *

22 B. The secretary of state may prescribe and furnish forms for filing the
23 annual report.

24 ~~B.C.~~ Each corporation, except a church, shall pay a filing fee as provided in
25 R.S. 49:222 at the time of filing such report. No church shall be required to pay ~~said~~
26 the fee.

27 ~~C.(+)~~ D.(1) A church which is a member of and in good standing with a
28 statewide church association may file such report through ~~said~~ the association. The
29 association shall then furnish the required information to the secretary of state. In

1 §239.1. Certificate of correction

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

11 * * *

12 §241. Restatement of articles

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

18 (1) That the restatement accurately copies the articles and all amendments
19 thereto in effect at the date of the restatement, without substantive change except as
20 made by any new amendment or amendments contained in the restatement, and
21 indicate any such changes;

22 (2) That each amendment has been effected in conformity with law;

23 (3) The date of incorporation and the date of the restatement; ~~and~~

24 (4) Such other information as may be required by R.S. 12:237, 239 and 240,
25 if the restatement contains any new amendment.

26 B. The secretary of state may prescribe and furnish forms for filing the
27 restated articles.

28 ~~B.C.~~ The restated articles shall be executed, filed and recorded in the manner
29 provided for articles of amendment in R.S. 12:238, and shall be effective, when

1 recorded by the ~~Secretary~~ secretary of ~~State~~ state, as of the date and, if endorsed on
2 the restated articles, the hour of filing with him.

3 ~~C.D.~~ Upon effectiveness of the restated articles, the original articles and all
4 amendments thereto shall be superseded, and the restated articles shall be deemed
5 to be the articles of incorporation of the corporation.

6 * * *

7 §243. Merger or consolidation procedure

8 * * *

9 F.(1) The secretary of state may prescribe and furnish forms for filing the
10 merger agreement. The agreement, so adopted, certified and acknowledged, shall
11 be filed with the secretary of state, who, after all incorporation taxes, fees and
12 charges have been paid as required by law, shall record the same in his office,
13 endorse thereon the date and, if requested, the hour of filing thereof with him, and
14 issue a certificate of merger or consolidation which shall recite the names of all of
15 the merging and consolidating corporations, the name of the state or country under
16 the laws of which each was formed, whether a merger or consolidation is involved,
17 the name of the surviving or consolidated corporation, the name of the state or
18 country under the laws of which the consolidated corporation is formed, the date and,
19 if endorsed on the agreement, the hour of filing of the agreement with him, and the
20 effective time of the merger or consolidation, if stated in the agreement.

21 * * *

22 G.

23 * * *

24 (5) The secretary of state may prescribe and furnish forms for filing the
25 certificate of merger.

26 H.(1) Notwithstanding approval by the members, and at any time prior to the
27 effectiveness of the merger or consolidation, the merger or consolidation may be
28 abandoned pursuant to a provision for such abandonment, if any, contained in the
29 agreement of merger or consolidation.

1 C. The members or incorporators authorizing the dissolution may authorize
2 liquidation of the affairs of the corporation out of court, by appointment of one or
3 more liquidators to conduct the liquidation, but the appointment shall not be
4 operative until:

5 * * *

6 (2) A certificate that the dissolution has been authorized in accordance with
7 this Section, setting forth the manner of such authorization, has been signed by an
8 officer of the corporation, acknowledged by the officer who signed it, and filed with
9 the secretary of state, who, after all fees and charges have been paid as required by
10 law, shall record the same in his office and endorse thereon the date of filing thereof
11 with him. The secretary of state may prescribe and furnish forms for the certificate.

12 * * *

13 §250.1. Dissolution by affidavit

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

21 (2) The secretary of state may prescribe and furnish forms for the affidavit.

22 * * *

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

25 A. When a corporation has been liquidated completely:

26 * * *

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

1 * * *

2 §257. Termination of proceedings for dissolution

3 * * *

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

11 (2) The secretary of state may prescribe and furnish forms for the certificate.

12 (3) One certificate shall be filed with the secretary of state, who, after all fees
13 and charges have been paid as required by law, shall file the same in his office and
14 endorse thereon the date of filing thereof with him. One certificate shall be filed for
15 record in the office of the recorder of mortgages of the parish in which the
16 corporation's registered office is located, and one certificate shall be filed with the
17 court, if the dissolution is under the supervision of the court.

18 * * *

19 §262.1. Failure to file annual reports; revocation and reinstatement of articles;
20 limitation on authority to do business with the state

21 * * *

22 E.(1) The certificate of incorporation and articles of incorporation shall be
23 reinstated upon the filing, with the secretary of state and within three years from the
24 effective date of the revocation, of an application of reinstatement, signed and
25 acknowledged by an officer of the corporation, accompanied by a reinstatement fee
26 and a current annual report. The secretary of state may prescribe and furnish forms
27 for the reinstatement and annual report. However, if a suit for liquidation or
28 receivership has been filed at the time the reinstatement is applied for, then the
29 unanimous written consent to the reinstatement by the shareholders, certified by the

1 corporation's secretary to contain the signatures of all of the shareholders, ~~must~~ shall
2 also be filed with the application for reinstatement.

3 * * *

4 §304. Application for certificate of authority

5 A. Application by a foreign corporation to procure a certificate of authority
6 shall be made to the secretary of state and shall set forth:

7 * * *

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

18 * * *

19 §307.1. Certificate of correction by a foreign corporation

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

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

3 * * *

4 G. The secretary of state may prescribe and furnish forms for filing the
5 statement of change and agent resignation.

6 §309. Annual report

7 * * *

8 C. The secretary of state may prescribe and furnish forms for filing the
9 annual report.

10 * * *

11 §312. Withdrawal

12 * * *

13 C.(1) ~~Two copies of such~~ The application for withdrawal shall be delivered
14 to the secretary of state. If the secretary of state finds that such application conforms
15 to the provisions of this Chapter, he shall, when all fees, charges, taxes,
16 unemployment compensation contributions, penalties, and interest have been paid
17 as required by law and evidenced by certificates of the secretary of the Department
18 of Revenue and the administrator of Louisiana Employment Security Law:

19 (a) ~~Endorse on each application the word "Filed", and the month, day, and~~
20 ~~year of the filing thereof.~~ Issue a filed copy of the application endorsed with the
21 month, day, and year of filing.

22 (b) File ~~one~~ the application in his office.

23 (c) Issue a certificate of withdrawal ~~to which he shall affix the other~~
24 ~~application.~~

25 (2) The certificate of withdrawal, ~~together with an application for withdrawal~~
26 ~~affixed thereto~~ and the filed copy of the application for withdrawal, issued by the
27 secretary of state, shall be returned to the corporation or its representative. Upon the
28 issuance of such certificate of withdrawal, the authority of the corporation to transact
29 business in this state shall cease.

1 §312.1. Termination of withdrawal proceedings

2 At any time before the certificate of withdrawal is issued by the secretary of
3 state pursuant to R.S. 12:312, withdrawal proceedings may be terminated by
4 delivering to the secretary of state a request that withdrawal proceedings be
5 terminated. The request shall be signed by any officer of the corporation. The
6 secretary of state may prescribe and furnish forms for filing the request to terminate
7 withdrawal proceedings. After all fees and charges have been paid as required by
8 law, the secretary of state shall place the request to terminate withdrawal proceedings
9 on file in his office. The secretary of the Department of Revenue and the
10 administrator of Louisiana Employment Security Law shall be notified by the
11 secretary of state of the termination of withdrawal proceedings.

12 §313. Revocation of certificate of authority

13 * * *

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

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

27 ~~The secretary of state is authorized to hold hearings and take evidence where~~
28 ~~the corporation undertakes to show cause why its certificate of authority should not~~
29 ~~be suspended and to make an order suspending the certificate of authority in the light~~

1 ~~of such evidence where the order is justified according to same. The order shall be~~
2 ~~recorded in the archives of his office.~~

3 ~~Where notice of noncompliance has been furnished as provided in this~~
4 ~~Subsection and no showing or reply has been made within the fifteen day period~~
5 ~~allowed, it shall be presumed that the corporation has failed to comply with~~
6 ~~Paragraphs (1), (2), (3), or (4) of Subsection A of this Section and the secretary of~~
7 ~~state may suspend the certificate of authority of any such corporation.~~

8 (2) The secretary of state shall give the corporation at least sixty days written
9 notice of the secretary's intention to suspend the corporation's certificate of authority.
10 The notice shall be mailed to the corporation's last known address by United States
11 mail.

12 (3) In the event any such corporation thereafter complies with the
13 requirements of ~~said paragraphs, Paragraph (A)(1), (2), (3), or (4) of this Section,~~ or
14 shows that it was already in compliance with same, the secretary of state is
15 authorized to revoke any suspension issued by him in respect to ~~said~~ the corporation
16 and to restore ~~same~~ the corporation to good standing and record same in the archives
17 of his office.

18 (4) If a corporation's certificate of authority is suspended for failure to file
19 its annual report within the time required by this Chapter as referenced in Paragraph
20 (A)(1) of this Section, and has been suspended for six months or more, the secretary
21 of state shall revoke the suspension only if the required annual report is accompanied
22 by a certificate of corporate existence or a certificate of good standing, not a certified
23 copy of the corporation's articles or certificate of incorporation, from an authorized
24 official of the jurisdiction of its incorporation bearing an original signature and dated
25 within ninety days of its submission.

26 ~~Where any order of suspension is made under this Subsection, the secretary~~
27 ~~of state shall forward a certified copy of the order to the corporation's last known~~
28 ~~address by certified mail, return receipt requested. Similar notice shall be furnished~~
29 ~~in the event of revocation of such suspension.~~

1 (c) The fee for reinstatement proceedings authorized by R.S. 12:1364(A)(1).

2 * * *

3 §1308.3. Conversion of state of organization

4 * * *

5 C. The domestic or foreign limited liability company seeking conversion
6 shall file with the secretary of state a written request for conversion of the state of
7 organization. If the company is manager-managed, the request shall be executed by
8 a manager of the company. The request for conversion shall be acknowledged by
9 at least one of the persons who signed it or may be executed by authentic act. The
10 secretary of state may prescribe and furnish forms for filing the request for
11 conversion. If the company is member-managed, the request shall be executed by
12 a member of the company. The request shall contain all of the following:

13 * * *

14 §1309. Amendment of articles of organization

15 * * *

16 B. After an amendment has been adopted as provided by this Chapter,
17 articles of amendment setting forth the amendment, the date, and manner of adoption
18 thereof shall be executed in the limited liability company's name by a manager of the
19 limited liability company, if management of the limited liability company is vested
20 in one or more managers pursuant to R.S. 12:1312, or by at least one member of the
21 limited liability company, if management of the limited liability company is reserved
22 to the members. The articles of amendment shall be acknowledged by at least one
23 of the persons who signed them or may be executed by authentic act. The secretary
24 of state may prescribe and furnish forms for filing the amendment.

25 * * *

1 §1310. Certificates of correction

2 * * *

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

14 * * *

15 §1335.1. Dissolution by affidavit

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

25 * * *

26 §1339. Articles of dissolution

27 * * *

28 B.(1) The articles of dissolution shall be signed by one or more managers,
29 if management of the limited liability company is vested in one or more managers

1 D. The secretary of state may prescribe and furnish forms for filing the
2 certificate of correction.

3 §1350. Registered agent; registered office; principal business establishment;
4 keeping of records by foreign limited liability company

5 * * *

6 G. The secretary of state may prescribe and furnish forms for filing the
7 statement of change and agent resignation.

8 §1350.1. Annual report

9 * * *

10 B. The secretary of state may prescribe and furnish forms for filing the
11 annual report.

12 B: C. The provisions of this Section shall apply to any foreign limited
13 liability company qualified on or after July 7, 1992.

14 * * *

15 §1352. Termination of withdrawal proceedings

16 At any time before the certificate of withdrawal is issued by the secretary of
17 state pursuant to R.S. 12:1351, withdrawal proceedings may be terminated by
18 delivering to the secretary of state a request that withdrawal proceedings be
19 terminated. The request shall be signed by a manager, if management of the limited
20 liability company is vested in one or more managers, or a member, if management
21 is reserved to the members. The secretary of state may prescribe and furnish forms
22 for filing the request to terminate withdrawal proceedings. After all fees and charges
23 have been paid as required by law, the secretary of state shall place the request to
24 terminate withdrawal proceedings on file in his office and shall acknowledge receipt
25 of the request by returning the application for withdrawal forms to the limited
26 liability company or its representative. The secretary of the Department of Revenue
27 and the administrator of Louisiana Employment Security Law shall be notified by
28 the secretary of state of the termination of withdrawal proceedings.

1 §1353. Revocation or suspension of certificate of authority; limitation on authority
2 to do business with the state

3 * * *

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

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

23 ~~(3) When notice of noncompliance has been furnished as provided in this~~
24 ~~Subsection and no showing or reply has been made within the fifteen-day period~~
25 ~~allowed, it shall be presumed that the limited liability company has failed to comply~~
26 ~~with a requirement of this Chapter or other relevant law as stated in Paragraphs (1)~~
27 ~~through (4) of Subsection A of this Section and the secretary of state may suspend~~
28 ~~the certificate of authority of any such limited liability company. The secretary of~~
29 ~~state shall give the limited liability company at least sixty days written notice of the~~

1 secretary's intention to suspend the limited liability company's certificate of
2 authority. The notice shall be mailed to the limited liability company's last known
3 address by United States Postal Service mail. In the event any such limited liability
4 company thereafter complies with any such requirement, or shows that it was already
5 in compliance with same, the secretary of state is authorized to revoke any
6 suspension issued by him in respect to such limited liability company, to restore
7 same to good standing, and to record same in the archives of his office. If a limited
8 liability company's certificate of authority is suspended for failure to file its annual
9 report within the time required by this Chapter as referenced in Paragraph (A)(9) of
10 this Section, and has been suspended for six months or more, the secretary of state
11 shall revoke the suspension only if the required annual report is accompanied by a
12 certificate of existence or a certificate of good standing, not a certified copy of the
13 limited liability company's articles or certificate of organization, from an authorized
14 official of the jurisdiction of its organization bearing an original signature and dated
15 within ninety days of its submission. ~~Where any order of suspension is made under~~
16 ~~this Subsection, the secretary of state shall forward a certified copy of the order to~~
17 ~~the limited liability company's last known address by certified mail, return receipt~~
18 ~~requested. Similar notice shall be furnished in the event of revocation of such~~
19 ~~suspension.~~

* * *

§1360. Certificate of merger or consolidation

* * *

B.(1) The secretary of state may prescribe and furnish forms for filing the agreement and certificate of merger.

(2) The secretary of state, after all taxes, fees, and charges have been paid as required by law, shall record the agreement, or certificate in lieu thereof, in his office, endorse thereon the date and, if requested the hour of filing thereof with him, and issue a certificate of merger or consolidation, which shall recite the names of all of the merging and consolidating constituent entities, the name of the state or country

1 under the laws of which each was formed, whether a merger or consolidation is
 2 involved, the name of the surviving or new entity, the name of the state or country
 3 under the laws of which the new entity is formed, the date, and, if endorsed on the
 4 agreement or certificate, the hour of filing of the agreement or certificate with him,
 5 and the effective date, and time, of the merger or consolidation, if stated in the
 6 agreement or certificate.

7 (2)(3) The agreement or certificate may be delivered to the secretary of state
 8 in advance for filing as of any specified date and, if specified upon such delivery, as
 9 of any given time on such date, within thirty days after the date of delivery. A
 10 duplicate original of the certificate of merger or consolidation issued by the secretary
 11 of state shall, within thirty days after issuance of the certificate, be filed for record
 12 in the conveyance records of each parish in this state in which any of the constituent
 13 entities has immovable property, title to which will be transferred as a result of the
 14 merger or consolidation.

15 * * *

16 §1702. ~~Electronic mail addresses and short message service numbers;~~
 17 confidentiality Confidentiality of information

18 A. Any electronic mail address, internet protocol address number, or short
 19 message service number submitted to or captured by the secretary of state pursuant
 20 to the provision of this Title shall be confidential and shall not be disclosed by the
 21 secretary of state or any employee or official of the Department of State.

22 B. Computer system or program information, including software, related
 23 menus, flow charts, network diagrams, user names, non-public uniform resource
 24 locators, database object names, computer names, device identifiers and materials,
 25 prompts, dialogues, operating and instruction manuals, programming materials or
 26 instructions, any other computer operating or support materials relating to the
 27 secretary of state's computer systems and equipment, and any information contained
 28 within the secretary of state's computer systems which if disclosed may impair the
 29 security of the secretary of state's information technology infrastructure shall be

1 confidential and shall not be disclosed by the secretary of state or any employee or
2 official of the Department of State.

3 C. The provisions of Subsection A of this Section shall not prohibit the
4 disclosure of electronic mail addresses, internet protocol address numbers, or short
5 message service numbers by the secretary of state or any employee or official of the
6 Department of State to an agency, official, or employee of state government or of a
7 political subdivision of the state in the course of the interaction of the agency,
8 official, or employee with the Department of State. An agency, official, or employee
9 that receives electronic mail addresses, internet protocol address numbers, or short
10 message service numbers pursuant to this Subsection shall use the electronic mail
11 addresses, internet protocol address numbers, or short message service numbers only
12 for the governmental purposes for which the information was submitted or captured,
13 shall not disclose the electronic mail addresses, internet protocol address numbers,
14 or short message service numbers, and shall maintain the confidentiality of the
15 electronic mail addresses, internet protocol address numbers, and short message
16 service numbers.

17 * * *

18 §1804. Election of status; corporate name

19 A. A business corporation incorporated in accordance with R.S. ~~12:21~~ 12:1-
20 201 et seq., may elect to be a benefit corporation under this Chapter by stating in its
21 articles that it is a benefit corporation subject to this Chapter.

22 * * *

23 Section 3. R.S. 51:211(A), 215.1(A), and 219 are hereby amended and reenacted and
24 R.S. 51:217(C) is hereby enacted to read as follows:

25 §211. Definitions

26 A. The term "trademark" as used herein means any ~~work~~ word, name,
27 symbol, or device or any combination thereof adopted and used by a person to
28 identify goods made or sold by him and to distinguish them from goods made or sold
29 by others.

1 * * *

2 §215.1. Certificate of correction

3 A.(1) Whenever the original certificate of registration filed with the secretary
4 of state under any provision of this Chapter is an inaccurate record of the trade name
5 action, trademark action, or service mark action therein referred to, or is defectively
6 or erroneously executed or acknowledged, such instrument may be corrected by
7 filing with the secretary of state a certificate of correction which shall be executed,
8 acknowledged, filed, and recorded in accordance with this Section.

9 (2) The certificate of correction shall specify the inaccuracy or defect to be
10 corrected and shall set forth that portion of the instrument in correct form.

11 (3) The secretary of state may prescribe and furnish forms for filing the
12 certificate of correction.

13 * * *

14 §217. Assignment

15 * * *

16 C. The secretary of state may prescribe and furnish forms for assigning a
17 trade name, trademark, and service mark.

18 * * *

19 §219. Cancellation

20 A. The secretary of state shall cancel from the register:

21 (1) After one year from July 31, 1968₂ all registrations under prior acts which
22 are more than ten years old and not renewed in accordance with this Subpart₂;

23 (2) Any registration concerning which the secretary of state shall receive a
24 voluntary request for cancellation thereof from the registrant or the assignee of
25 record₂;

26 (3) All registrations granted ~~under~~ pursuant to this Subpart and not renewed
27 in accordance with the provisions hereof₂;

28 (4) Any registration concerning which a court of competent jurisdiction shall
29 find;

- 1 (a) That the registered mark has been abandoned;
 2 (b) That the registrant is not the owner of the mark;
 3 (c) That the registration was granted improperly;
 4 (d) That the registration was obtained fraudulently;
 5 (e) That the registered mark is so similar, as to be likely to cause confusion
 6 or mistake or to deceive, to a mark registered by another person in the United States
 7 Patent Office, prior to the date of the filing of the application for registration by the
 8 registrant hereunder, and not abandoned; provided, however, that should the
 9 registrant prove that he is the owner of a concurrent registration of his mark in the
 10 United States Patent Office covering an area including this state, the registration
 11 hereunder shall not be cancelled.

12 (5) When a court of competent jurisdiction shall order cancellation of a
 13 registration on any ground.

14 B. The secretary of state may prescribe and furnish forms for filing a
 15 voluntary cancellation of registration in accordance with Subsection A of this
 16 Section.

17 Section 4. This Act shall become effective upon signature by the governor or, if not
 18 signed by the governor, upon expiration of the time for bills to become law without signature
 19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 20 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 21 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 Reengrossed

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.

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

Proposed law 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.

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

Present law 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 present law or to show cause why the written notice should not have been given. Present law 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. Present law 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. Proposed law repeals present law.

Proposed law 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.

Proposed law 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 present law, 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.

Present law 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.

Proposed law 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.

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

Proposed law 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), 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)(intro para), 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))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Extend the authorization of the secretary of state to implement and establish procedures and systems for secure online form filing for the filing of any instrument to include the uploading of any drafted instrument, notwithstanding any provision of law requiring the mandatory use of a form promulgated by the secretary of state.
2. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Remove the authorization of the secretary of state to mandate the use of certain forms.
2. Remove the authorization of the secretary of state to implement and establish procedures and systems for secure online form filing for the filing of any instrument to include the uploading of any drafted instrument, notwithstanding any provision of law requiring the mandatory use of a form promulgated by the secretary of state.
3. Make technical changes.