

SENATE, No. 2160

STATE OF NEW JERSEY

INTRODUCED JUNE 5, 1997

By Senator KYRILLOS

1 AN ACT concerning the status of certain entities and revising various  
2 parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. N.J.S.14A:4-3 is amended to read as follows:

8 14A:4-3. Change of registered office or registered agent.

9 (1) A domestic corporation or a foreign corporation authorized to  
10 transact business in this State may change its registered office or its  
11 registered agent, or both. When the registered office is changed, or  
12 when the registered agent is changed, or dies, resigns or becomes  
13 disqualified, the corporation shall, by resolution of the board,  
14 forthwith fix the address of the new registered office or designate the  
15 successor registered agent or both, as the case may be.

16 (2) Such corporation shall forthwith file in the office of the  
17 Secretary of State a certificate executed on behalf of the corporation  
18 setting forth

19 (a) the name of the corporation;

20 (b) if the registered agent is not being changed, the name of the  
21 registered agent;

22 (c) if the registered agent is being changed, the names of the  
23 registered agent being succeeded and of the successor registered  
24 agent;

25 (d) if the registered office is not being changed, the address of the  
26 then registered office;

27 (e) if the registered office is being changed, the address of the  
28 registered office immediately prior to the change, and the address of  
29 the new registered office;

30 (f) that the address of its registered office and the address of its  
31 registered agent will be identical after the change; and

32 (g) that the change in registered office, or registered agent, or both,  
33 is made pursuant to resolution of the board.

34 (3) The registered agent of one or more domestic or foreign

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 corporations may change the registered office of such corporation or  
2 corporations to another address in this State by filing in the office of  
3 the Secretary of State a certificate executed by such agent and setting  
4 forth

5 (a) the names of all the corporations whose registered offices are  
6 being changed and for which he or it is the registered agent, listed in  
7 alphabetical order;

8 (b) the address of the registered office of each such corporation  
9 immediately prior to the change, and the address of the new registered  
10 office;

11 (c) that the address of the registered office of each such corporation  
12 and the address of its registered agent will be identical after the  
13 change; and

14 (d) a statement that at least 20 days' prior notice of the change has  
15 been given to each such corporation in writing.

16 The change of the registered office of each of the corporations  
17 named in the certificate shall become effective upon the date of such  
18 filing or at such later time, not to exceed 30 days after the date of  
19 filing, as may be set forth in the certificate.

20 (4) [If any certificate of change required by this section is not filed,  
21 the corporation shall, after written demand therefor by the Secretary  
22 of State by certified mail addressed to the corporation at the last  
23 address appearing of record in his office, forfeit to the State a penalty  
24 of \$200.00 to be recovered with costs in a civil action prosecuted by  
25 the Attorney General. No corporation shall be subject to penalty if it  
26 shall, within 30 days after written demand, file the certificate of  
27 change required by law and pay to the Secretary of State the fee  
28 provided by law for the filing of each such certificate of change. In  
29 lieu of such civil action, the Secretary of State, after expiration of  
30 such 30-day period, may issue a certificate to the Clerk of the  
31 Superior Court that the corporation is indebted for the payment of  
32 such penalty, and thereupon the clerk shall immediately enter upon his  
33 record of docketed judgments the name of such corporation as the  
34 judgment debtor and of the State as the judgment creditor, a  
35 statement that the penalty is imposed under this section, the amount  
36 of the penalty, and the date of such certificate. Such entry shall have  
37 the same force as a judgment docketed in the Superior Court. The  
38 Secretary of State within 5 days after such entry shall give notice  
39 thereof to the corporation by certified mail addressed to the  
40 corporation at the last address appearing of record in his office.]  
41 (Deleted by amendment, P.L. . . . c. . . .)

42 (cf: P.L.1977, c.34, s.1)

43

44 2. N.J.S.14A:4-4 is amended to read as follows:

45 14A:4-4. Resignation of registered agent.

46 (1) The registered agent of a domestic corporation or a foreign

1 corporation authorized to transact business in this State may resign by  
2 complying with the provisions of this section.

3 (2) The registered agent shall serve a notice of resignation by  
4 certified mail, return receipt requested, upon the president, or any vice  
5 president, or the secretary or treasurer of the corporation at the  
6 address last known to the agent, and shall make an affidavit of such  
7 service. The notice shall also advise the recipient of the requirements  
8 of subsection 14A:4-3(1) [and the penalties for failure to comply  
9 imposed by subsection 14A:4-3(4)]. If such service cannot be made,  
10 the affidavit shall so state, and shall state briefly why such service  
11 cannot be made. The affidavit, together with a copy of the notice of  
12 resignation, shall be filed in the office of the Secretary of State.

13 (3) Such resignation shall become effective upon the expiration of  
14 30 days after the filing in the office of the Secretary of State of the  
15 affidavit under this section or upon the designation by the corporation  
16 of a new registered agent pursuant to this act, whichever is earlier. If  
17 the corporation fails to designate a new registered agent within said  
18 30-day period, the corporation shall thereafter be deemed to have no  
19 registered agent or registered office in this State.

20 (4) [Service of a notice of resignation shall be in lieu of and shall  
21 be deemed to be the written demand of the Secretary of State required  
22 by subsection 14A:4-3(4).] (~~Deleted by amendment, P.L. , c. .~~)  
23 (cf: P.L.1988, c.94, s.15)

24

25 3. N.J.S.14A:4-5 is amended to read as follows:

26 14A:4-5. Annual report to Secretary of State.

27 (1) Every domestic corporation and every foreign corporation  
28 authorized to transact business in this State shall file in the office of  
29 the Secretary of State, within the time prescribed by this section, an  
30 annual report, executed on behalf of the corporation, or executed by  
31 the registered agent, setting forth

32 (a) The name of the corporation and, in the case of a foreign  
33 corporation, the jurisdiction of its incorporation;

34 (b) The address of the registered office of the corporation in this  
35 State, and the name of its registered agent in this State at such  
36 address;

37 (c) The names and addresses of the directors and officers of the  
38 corporation;

39 (d) (~~Deleted by amendment, P.L. 1988, c. 94.~~)

40 (e) The address of its main business or headquarters office; and

41 (f) The address of its principal business office in New Jersey, if  
42 any.

43 (2) The Secretary of State shall designate a date for filing annual  
44 reports for each corporation required to submit a report pursuant to  
45 this section and shall annually notify the corporation of the date so  
46 designated not less than 60 days prior to such date. The corporation

1 shall file the report within 30 days before or 30 days after the date so  
2 designated. If the date so designated is not more than six months after  
3 the date on which an annual report pursuant to the provisions of prior  
4 law was filed or on which the certificate of incorporation became  
5 effective, the corporation shall not be required to file an annual report  
6 until one year after the first occurrence of the date so designated.

7 (3) [If the report is not so filed, the corporation shall, after written  
8 demand therefor by the Secretary of State by certified mail addressed  
9 to the corporation at the last address appearing of record in his office,  
10 forfeit to the State a penalty of \$200.00 for each report required to  
11 have been filed not more than five years prior thereto and remaining  
12 unfiled, to be recovered with costs in a civil action prosecuted by the  
13 Attorney General. No corporation shall be subject to penalty if it  
14 shall, within 30 days after such written demand, file the reports  
15 required by law and pay to the Secretary of State the fee provided by  
16 law for the filing of each such report. In lieu of such civil action, the  
17 Secretary of State, after expiration of such 30-day period, may issue  
18 a certificate to the Clerk of the Superior Court that the corporation is  
19 indebted for the payment of such penalty, and thereupon the clerk shall  
20 immediately enter upon his record of docketed judgments the name of  
21 such corporation as the judgment debtor, and of the State as the  
22 judgment creditor, a statement that the penalty is imposed under this  
23 section, the amount of the penalty, and the date of such certificate.  
24 Such entry shall have the same force as a judgment docketed in the  
25 Superior Court. The Secretary of State within five days after such  
26 entry shall give notice thereof to the corporation by certified mail  
27 addressed to the corporation at the last address appearing of record in  
28 his office.] (Deleted by amendment, P.L. , c. .)

29 (4) The Secretary of State shall furnish annual report forms, shall  
30 keep in his office all such reports and shall prepare an alphabetical  
31 index thereof, which reports and index shall be open to public  
32 inspection at proper hours.

33 (5) In the event a domestic corporation fails to file an annual report  
34 for two consecutive years with the Secretary of State, then, after  
35 written notice by certified mail to the corporation at its last known  
36 main business or headquarters office [and] or at the address of its  
37 registered agent, the Secretary of State may issue a proclamation  
38 declaring that the certificate of incorporation of the corporation has  
39 been revoked and that all powers conferred by law upon it shall  
40 thereafter be inoperative and void. The proclamation of the Secretary  
41 of State shall be filed in the office of the Secretary of State. No  
42 corporation's certificate of incorporation shall be revoked pursuant to  
43 this subsection if, within 30 days after the giving of notice, it files the  
44 reports required by law and pays to the Secretary of State all of the  
45 fees due for the filing of the reports [and all penalties which have been  
46 imposed pursuant to subsection (3)].

1 (6) In the event a foreign corporation fails to file an annual report  
2 for two consecutive years with the Secretary of State, then, after  
3 written notice by certified mail to the corporation at its last known  
4 main business or headquarters office [and] or at the address of its  
5 registered agent, the Secretary of State may issue a proclamation  
6 declaring that the certificate of authority to do business of the  
7 corporation and the powers conferred by law upon it shall be revoked.  
8 The proclamation of the Secretary of State shall be filed in the office  
9 of the Secretary of State. No corporation's certificate of authority  
10 shall be revoked pursuant to this paragraph if, within 30 days after the  
11 giving of notice, it files the reports required by law and pays to the  
12 Secretary of State all of the fees due for the filing of the reports [and  
13 all penalties which have been imposed pursuant to subsection (3)].

14 (7) If the certificate of incorporation of a domestic corporation or  
15 a certificate of authority of a foreign corporation has been revoked by  
16 proclamation, the certificate shall be reinstated by proclamation of the  
17 Secretary of State upon: (a) payment by the corporation of all fees  
18 [and fines] due to the Secretary of State , consisting of a reinstatement  
19 filing fee of \$50, tax clearance filing fee of \$20, current annual report  
20 fee, all delinquent annual report fees, and a reinstatement assessment  
21 of \$200; and (b) certification of the Director of the Division of  
22 Taxation that no cause exists for revocation of the corporation's  
23 certificate of incorporation or certificate of authority pursuant to  
24 R.S.54:11-2. The reinstatement relates back to the date of issuance of  
25 the proclamation revoking the certificate of incorporation or the  
26 certificate of authority and shall validate all actions taken in the  
27 interim. In the event that in the interim the corporate name has  
28 become unavailable, the Secretary of State shall issue the certificate  
29 upon, in the case of a domestic corporation, the filing of an  
30 amendment to its certificate of incorporation to change the corporate  
31 name to an available name, and, in the case of a foreign corporation,  
32 the filing of an amended certificate of authority adopting an assumed  
33 name. The Secretary of State shall provide the forms necessary to  
34 effect annual report reinstatements.

35 (cf: P.L.1988, c.94, s.16)

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37 4. N.J.S.15A:4-3 is amended to read as follows:

38 15A:4-3. Change of Registered Office or Registered Agent.

39 a. A domestic corporation or a foreign corporation authorized to  
40 conduct activities in this State may change its registered office or its  
41 registered agent, or both. When the registered office is changed, or  
42 when the registered agent is changed, or dies, resigns or becomes  
43 disqualified, the corporation shall, by resolution of the board,  
44 forthwith fix the address of the new registered office or designate the  
45 successor registered agent or both, as the case may be.

46 b. The corporation shall forthwith file in the office of the Secretary

1 of State a certificate executed on behalf of the corporation setting  
2 forth:

3 (1) The name of the corporation;

4 (2) If the registered agent is not being changed, the name of the  
5 registered agent;

6 (3) If the registered agent is being changed, the names of the  
7 registered agent being succeeded and of the successor registered  
8 agent;

9 (4) If the registered office is not being changed, the address of the  
10 then registered office;

11 (5) If the registered office is being changed, the address of the  
12 registered office immediately prior to the change, and the address of  
13 the new registered office;

14 (6) That the address of its registered office and the address of its  
15 registered agent will be identical after the change; and

16 (7) That the change in registered office, or registered agent, or  
17 both, is made pursuant to resolution of the board.

18 c. The registered agent of one or more domestic or foreign  
19 corporations may change the registered office of the corporation or  
20 corporations to another address in this State by filing in the office of  
21 the Secretary of State a certificate executed by the agent and setting  
22 forth:

23 (1) The names of all the corporations whose registered offices are  
24 being changed and for which it is the registered agent, listed in  
25 alphabetical order;

26 (2) The address of the registered office of each corporation  
27 immediately prior to the change, and the address of the new registered  
28 office;

29 (3) That the address of the registered office of each corporation and  
30 the address of its registered agent will be identical after the change;  
31 and

32 (4) A statement that at least 20 days' prior notice of the change has  
33 been given to each corporation in writing.

34 The change of the registered office of each of the corporations  
35 named in the certificate shall become effective upon the date of the  
36 filing or at a later time, not to exceed 30 days after the date of filing,  
37 as may be set forth in the certificate.

38 d. [If any certificate of change required by this section is not filed,  
39 the corporation shall, after written demand by the Secretary of State  
40 by certified mail addressed to the corporation at the last address  
41 appearing of record in his office, forfeit to the State a penalty of  
42 \$200.00 to be recovered with costs in a civil action prosecuted by the  
43 Attorney General. No corporation shall be subject to penalty if it  
44 shall, within 30 days after written demand, file the certificate of  
45 change required by law and pay to the Secretary of State the fee  
46 provided by law for the filing of each certificate of change. In lieu of

1 the civil action, the Secretary of State, after expiration of the 30-day  
2 period, may issue a certificate to the Clerk of the Superior Court that  
3 the corporation is indebted for the payment of the penalty, and the  
4 clerk shall immediately enter upon the record of docketed judgments  
5 the name of the corporation as the judgment debtor and of the State  
6 as the judgment creditor, a statement that the penalty is imposed  
7 under this section, the amount of the penalty, and the date of the  
8 certificate. The entry shall have the same force as a judgment  
9 docketed in the Superior Court. The Secretary of State within 5 days  
10 after the entry shall give notice thereof to the corporation by certified  
11 mail addressed to the corporation at the last address appearing of  
12 record in the office of the Secretary of State.] (Deleted by  
13 amendment, P.L. , c. .)  
14 (cf: N.J.S.15A:4-3)  
15

16 5. N.J.S.15A:4-5 is amended to read as follows:

17 15A:4-5. Annual Report to Secretary of State.

18 a. Every domestic corporation and every foreign corporation  
19 authorized to conduct activities in this State shall file in the office of  
20 the Secretary of State, within the time prescribed by this section, an  
21 annual report, executed on behalf of the corporation, setting forth:

22 (1) the name of the corporation and, in the case of a foreign  
23 corporation, the jurisdiction of its incorporation;

24 (2) the address, including the actual location as well as postal  
25 designation, if different, of the registered office of the corporation in  
26 this State, and the name of its registered agent in this State at that  
27 address, and, if a foreign corporation, the address of its main or  
28 headquarters office; and

29 (3) the names and addresses of the trustees and the officers of the  
30 corporation, which addresses shall be either the residence address of  
31 that person or other address where that person regularly receives mail  
32 and which is not the address of the corporation.

33 b. The Secretary of State shall designate a date for filing annual  
34 reports for each corporation required to submit a report pursuant to  
35 this section and shall annually notify the corporation of the date so  
36 designated not less than 60 days prior to that date. The corporation  
37 shall file the report within 30 days before or within 30 days after the  
38 date so designated. If the date so designated is not more than 6  
39 months after the date on which an annual report pursuant to the  
40 provisions of prior law was filed or on which the certificate of  
41 incorporation became effective, the corporation shall not be required  
42 to file an annual report until 1 year after the first occurrence of the  
43 date so designated.

44 c. If the report is not filed for 2 consecutive years, the certificate  
45 of incorporation of the corporation or the certificate of authority of a  
46 foreign corporation shall, after written demand for the reports by the

1 Secretary of State by certified mail addressed to the corporation at the  
2 last address appearing of record in the office of the Secretary of State,  
3 be revoked for the failure to file reports. No corporation shall be  
4 subject to the revocation of its certificate of incorporation or its  
5 certificate of authority if it shall, within 60 days after the written  
6 demand, file the reports required by law and pay to the Secretary of  
7 State the fee provided by law for the filing of each report. Any  
8 corporation having its certificate of incorporation or its certificate of  
9 authority revoked may [, within 2 years of the revocation,] cause a  
10 reinstatement of the certificate upon payment to the Secretary of State  
11 of [double the amount of] : the fee then payable upon the filing of  
12 the certificate [and upon filing] of incorporation; a current annual  
13 report fee; and payment of a reinstatement filing assessment of \$135.  
14 The reinstatement relates back to the date of issuance of the  
15 proclamation revoking the certificate of incorporation or the certificate  
16 of authority and shall validate all actions taken in the interim. If the  
17 corporate name has become unavailable in the interim, the Secretary  
18 of State shall issue the certificate upon the filing of an amendment to  
19 its certificate of incorporation to change the corporate name to an  
20 available name, if the corporation is a domestic corporation, and the  
21 filing of an amended certificate of authority adopting an assumed  
22 name, if the corporation is a foreign corporation.

23 d. The Secretary of State shall furnish annual report forms,  
24 including the forms necessary to effect annual report reinstatments,  
25 shall keep all the reports and shall prepare an alphabetical index  
26 thereof. The reports and index shall be open to public inspection at  
27 proper hours.

28 (cf: N.J.S.15A:4-5)

29

30 6. N.J.S.15A:12-11 is amended to read as follows:

31 15A:12-11. Dissolution in Action Brought by the Attorney  
32 General.

33 a. The Attorney General may bring an action in the Superior Court  
34 for the dissolution of a corporation upon the ground that the  
35 corporation:

36 (1) Has procured its organization through fraudulent  
37 misrepresentation or concealment of a material fact;

38 (2) Has had its certificate of incorporation revoked under  
39 subsection c. of section 15A:4-5 (failure to file its annual report) [or  
40 has violated subsection d. of section 15A:4-3 (failure to file change  
41 of registered agent)];

42 (3) Has conducted activities after the period of duration specified  
43 in its certificate of incorporation and has neither amended its  
44 certificate of incorporation to extend the period nor proceeded to  
45 liquidate and cease activities;

46 (4) Has repeatedly exceeded the authority conferred upon it by law;

1 (5) Has repeatedly conducted its business in an unlawful manner;

2 (6) Has misused or improperly failed to use its powers, privileges  
3 or franchises;

4 (7) Is insolvent;

5 (8) Has suspended its ordinary activities for lack of funds;

6 (9) Is conducting its activities in violation of its certificate of  
7 incorporation or, with respect to specific assets, in violation of any  
8 terms, conditions, or restrictions applicable to those assets imposed  
9 upon it;

10 (10) Is conducting its activities at a great loss and with great  
11 prejudice to the interests of its creditors or members; or

12 (11) Is conducting activities in a manner which is prejudicial to the  
13 public.

14 b. The Superior Court may proceed in the action in a summary  
15 manner or otherwise. Upon a showing by clear and convincing  
16 evidence of any cause set forth in subsection a. of this section, the  
17 court may declare the corporation dissolved and a copy of the order  
18 of the court may be filed in the office of the Secretary of State as  
19 evidence thereof.

20 c. The enumeration in subsection a. of this section of grounds for  
21 dissolution shall not exclude any other statutory or common law action  
22 by the Attorney General for the dissolution of a corporation or the  
23 revocation or forfeiture of its corporate franchises.

24 (cf: N.J.S.15A:12-11)

25

26 7. Section 8 of P.L.1995, c.96 (C.42:1-44) is amended to read as  
27 follows:

28 8. a. To become a limited liability partnership, a partnership shall  
29 file in the Office of the Secretary of State an application stating the  
30 name of the partnership; the address of its principal office; the address  
31 of the registered office and name of the registered agent for service of  
32 process as required by this act; a brief statement of the business in  
33 which the partnership engages; any other matters that the partnership  
34 determines to include; and that the partnership thereby applies for  
35 status as a limited liability partnership.

36 b. Before doing business in this State, a foreign limited liability  
37 partnership shall register as a foreign limited liability partnership in the  
38 Office of the Secretary of State by filing an application setting forth  
39 the name of the partnership and, if different, the name under which it  
40 proposes to do business in this State; the State, territory or possession  
41 where formed; date of formation; the address of its principal office; if  
42 the partnership's principal office is not located in this State, the  
43 address of the registered office and the name and address of the  
44 registered agent for service of process, as required by this act; a  
45 statement that the partnership validly exists as a limited liability  
46 partnership under the laws of the jurisdiction of its formation; and a

1 brief statement of the nature of the business or purpose to be  
2 conducted or promoted in this State.

3 c. The application shall be executed by a majority in interest of the  
4 partners or by one or more of the partners authorized to execute an  
5 application.

6 d. The Secretary of State shall register as a limited liability  
7 partnership or foreign limited liability partnership any partnership that  
8 files a completed application that substantially conforms with the  
9 requirements of this act, accompanied by the appropriate fee.

10 e. A partnership registered pursuant to this section shall file, in  
11 each year following the year in which its application is filed, on a date  
12 specified by the Secretary of State, an annual report. The annual  
13 report shall be on a form provided by the Secretary of State, and shall  
14 indicate any material change in the information contained in the  
15 partnership's application for registration. If the annual report is not  
16 filed or the filing fee is not paid for two consecutive years, the  
17 registration of a limited liability partnership or foreign limited liability  
18 partnership shall, after written demand for the annual report by the  
19 Secretary of State by mail addressed to the limited liability partnership  
20 or foreign limited liability partnership at the last address appearing of  
21 record in the office of the Secretary of State, remain filed but be  
22 transferred to an inactive list. A limited liability partnership or foreign  
23 limited liability partnership shall not have its registration transferred to  
24 the inactive list if it shall, within 60 days after the written demand, file  
25 the annual report and fee required by this act. If the registration of a  
26 domestic or foreign limited liability partnership has been placed on the  
27 inactive list, the registration shall be reinstated by proclamation of the  
28 Secretary of State upon payment of all fees due to the Secretary of  
29 State, consisting of a reinstatement filing fee of \$50, current annual  
30 reports fee, all delinquent annual report fees, and a reinstatement filing  
31 assessment of \$200. Reinstatement relates back to the date of  
32 issuance of the proclamation placing the certificate of registration on  
33 the inactive list and shall validate all actions taken in the interim. If  
34 the limited liability partnership name of a domestic or foreign limited  
35 liability partnership has become unavailable in the interim, the  
36 Secretary of State shall issue the reinstatement upon the filing of a  
37 name change certificate that changes the name to an available name.  
38 The Secretary of State shall provide the forms necessary to effect  
39 annual report reinstatements.

40 f. Registration is effective immediately after the date an  
41 application is filed in the Office of the Secretary of State, and remains  
42 effective until it is voluntarily withdrawn by filing in the Office of the  
43 Secretary of State a written withdrawal notice executed by a majority  
44 in interest of the partners or by one or more partners of the partnership  
45 authorized to execute a withdrawal notice.

46 g. A partnership continues as a limited liability partnership if there

1 has been substantial compliance with the requirements of this act.  
2 After the filing of an application, the status of a partnership as a  
3 limited liability partnership, or the liability of the partners thereof, shall  
4 not be affected by errors or changes in the information stated in the  
5 application.

6 h. If an instrument filed in the Office of the Secretary of State  
7 pursuant to this section is an inaccurate record of the facts stated  
8 therein, or was defectively or erroneously executed, the instrument  
9 may be corrected by filing in the Office of the Secretary of State a  
10 certificate of correction by a partner. The certificate of correction  
11 shall specify the inaccuracy or defect to be corrected and shall set  
12 forth the correction. The instrument so corrected shall be deemed to  
13 have been effective in its corrected form as of its original filing date  
14 except as to persons who actually relied in good faith upon the  
15 inaccurate portion of the instrument and who are adversely affected by  
16 the correction. As to these persons, the correction shall be effective  
17 as of the effective date of filing of the certificate of correction. Such  
18 filing shall only be made if the Secretary of State consents to the filing.

19 i. The Secretary of State may provide forms for application for  
20 registration, notice of changes or payment of the annual fee.

21 j. Any limited liability partnership formed pursuant to an  
22 agreement governed by this section or any foreign limited liability  
23 partnership transacting business in this State under this section shall be  
24 exempt from the filing requirements of R.S.56:1-1 et seq.

25 k. The fact that an application or annual report is on file in the  
26 Office of the Secretary of State is notice that the partnership is a  
27 limited liability partnership or foreign limited liability partnership and  
28 is notice of all other facts set forth in the application or annual report.  
29 (cf: P.L.1995, c.96, s.8)

30

31 8. Section 66 of P.L.1983, c.489 (C.42:2A-69) is amended to read  
32 as follows:

33 66. Annual report to the Secretary of State by domestic limited  
34 partnerships.

35 a. Every domestic limited partnership authorized in this State shall  
36 file in the Office of the Secretary of State, within the time prescribed  
37 by this section, an annual report, executed on behalf of the limited  
38 partnership or executed by the registered agent setting forth:

39 1. The name of the limited partnership;

40 2. The address, including the actual location as well as the postal  
41 designation, if different, of the registered agent in this State; and

42 3. The name of the registered agent.

43 b. The Secretary of State shall designate a date of filing annual  
44 reports for each limited partnership required to submit a report  
45 pursuant to this section.

46 c. If the report is not filed for two consecutive years, the certificate

1 of limited partnership shall, after written demand for the reports by the  
2 Secretary of State by mail addressed to the limited partnership at the  
3 last address appearing of record in the office of the Secretary of State  
4 , remain filed but be transferred to an inactive list. A limited  
5 partnership shall not have its certificate of limited partnership  
6 transferred to the inactive list if it shall, within 60 days after the  
7 written demand, file the reports required by law and pay to the  
8 Secretary of State the fee provided by law for the filing of each report.

9 d. (1) Any domestic limited partnership on the inactive list may  
10 return to active status by:

11 [(1)] (a) Paying to the Secretary of State [double the amount of]  
12 the current annual report fee [for each year an annual report was not  
13 filed. Years prior to becoming inactive and years subsequent to being  
14 declared inactive shall be included in calculating this fee;

15 (2) Filing a current annual report; and

16 (3) , all delinquent annual report fees, a reinstatement filing fee of  
17 \$50 and a reinstatement filing assessment of \$200; and

18 (b) Submitting a certificate of amendment adopting a name which  
19 complies with paragraph (4) of subsection a. of section 6 of [this  
20 chapter] P.L.1983, c.489 (C.42:2A-6) , if the name of the inactive  
21 limited partnership does not comply with paragraph (4) of subsection  
22 a. of section 6.

23 (2) The Secretary of State shall provide the forms necessary to  
24 effect annual report reinstatements.

25 e. A limited partnership whose certificate has been transferred to  
26 the inactive list shall remain a limited partnership formed under this  
27 chapter or under R.S. 42:2-1 et seq., but no name reservations,  
28 transfers of reserved names, or certificates of amendment may be filed  
29 until the limited partnership whose certificate has been placed on the  
30 inactive list regains active status. A limited partner of a limited  
31 partnership is not liable as a general partner of the limited partnership  
32 solely by reason of the transfer of the certificate of limited partnership  
33 to the inactive list.

34 f. The Secretary of State shall furnish annual report forms, shall  
35 keep all the reports and shall prepare an index thereof. The reports  
36 shall be open to public inspection at proper hours.

37 (cf: P.L.1988, c.130, s.37.1).

38  
39 9. Section 67 of P.L.1983, c.489 (C.42:2A-70) is amended to read  
40 as follows:

41 67. Annual report to Secretary of State by foreign limited  
42 partnership.

43 a. Every foreign limited partnership authorized to transact  
44 business in this State shall file in the office of the Secretary of State,  
45 within the time prescribed by this section, an annual report, executed  
46 on behalf of the foreign limited partnership setting forth:

- 1 1. The name of the foreign limited partnership;
- 2 2. The address, including the actual location as well as postal  
3 designation, if different, of the registered agent in this State; and
- 4 3. The name of the registered agent.

5 b. The Secretary of State shall designate a date for filing annual  
6 reports for each foreign limited partnership required to submit a report  
7 pursuant to this section.

8 c. If the report is not filed for two consecutive years, the  
9 certificate of a foreign limited partnership to transact business in this  
10 State shall, after written demand for the reports by the Secretary of  
11 State by certified mail addressed to the foreign limited partnership at  
12 the last address appearing of record in the office of the Secretary of  
13 State, be revoked for the failure to file reports. A foreign limited  
14 partnership shall not be subject to the revocation of its certificate to  
15 transact business in this State if it shall, within 60 days after the  
16 written demand, file the reports required by law and pay to the  
17 Secretary of State the fee provided by law for the filing of each report.

18 d. Any foreign limited partnership may, within two years of the  
19 revocation of its certificate to transact business in this State, cause a  
20 reinstatement of the certificate upon :

21 (1) payment to the Secretary of State [double the amount] of the  
22 current annual report fee [for each year an annual report was not filed.  
23 Years prior to revocation and years after revocation shall be included  
24 in calculating this fee, and by filing a current annual report] , all  
25 delinquent annual report fees, a reinstatement filing fee of \$50 and a  
26 reinstatement filing assessment of \$200; and

27 (2) compliance with the requirements of subsection c. of section 6  
28 of P.L.1983, c.489 (C.42:2A-6), if the name of the inactive foreign  
29 limited partnership does not comply with the provisions of paragraph  
30 (4) of subsection a. of section 6 of P.L.1983, c.489 (C.42:2A-6).

31 e. A limited partner of a foreign limited partnership is not liable as  
32 a general partner of the foreign limited partnership solely by reason of  
33 the revocation, pursuant to this section, of the certificate of authority  
34 to transact business in this State.

35 [e.] f. The Secretary of State shall furnish annual report forms,  
36 including the forms necessary to effect annual report reinstatements.  
37 shall keep all the reports and shall prepare an index thereof. The  
38 reports shall be open to public inspection at proper hours.

39 (cf: P.L.1983, c.489, s.67)

40

41 10. Section 7 of P.L.1993, c.210 (C.42:2B-7) is amended to read  
42 as follows:

43 7. a. The registered agent of a domestic limited liability company  
44 or a foreign limited liability company authorized to transact business  
45 in this State may resign by complying with the provisions of this  
46 section.

1       b. The registered agent of a foreign or domestic limited liability  
2 company may resign and appoint a successor registered agent by filing  
3 a certificate in the office of the Secretary of State, stating that it  
4 resigns and the name and address of the successor registered agent.  
5 There shall be attached to such certificate a statement executed by the  
6 affected limited liability company ratifying and approving such change  
7 of registered agent. Upon such filing, the successor registered agent  
8 shall become the registered agent of each limited liability company  
9 which has ratified and approved the substitution and the successor  
10 registered agent's address, as stated in such certificate, shall become  
11 the address of each limited liability company's registered office in this  
12 State. The Secretary of State shall furnish to the successor registered  
13 agent upon request a certified copy of the certificate of resignation.  
14 Filing of the certificate of resignation shall be deemed to be an  
15 amendment of the certificate of formation of the limited liability  
16 company affected thereby and the limited liability company shall not  
17 be required to take any further action with respect thereto, to amend  
18 its certificate of formation under this act.

19       c. The registered agent of a limited liability company may resign  
20 without appointing a successor registered agent by complying with the  
21 following provisions:

22       (1) The registered agent, or, in the case of a registered agent who  
23 is deceased or has been declared incompetent by a court of competent  
24 jurisdiction, his legal representative, shall serve a notice of resignation  
25 by certified mail, return receipt requested, upon the limited liability  
26 company at the address last known to the agent, and shall make an  
27 affidavit of such service. If service cannot be made, the affidavit shall  
28 so state, and shall state briefly why service cannot be made. The  
29 affidavit, together with a copy of notice of resignation, shall be filed  
30 in the office of the Secretary of State.

31       (2) The resignation shall become effective 30 days after filing the  
32 affidavit of service in the office of the Secretary of State or upon the  
33 designation by the limited liability company of a new registered agent  
34 pursuant to this act, whichever is earlier. If the limited liability  
35 company fails to designate a new registered agent within the 30 day  
36 period, the limited liability company shall thereafter be deemed to have  
37 no registered agent or registered office in this State, until the limited  
38 liability company files a certificate of change of address of registered  
39 office and registered agent indicating the new registered office and  
40 registered agent.

41       (3) [If any certificate of change replacing a resigned agent is not  
42 filed, the limited liability company shall, after written demand therefor  
43 by the Secretary of State, forfeit to the State a penalty of \$200 for  
44 each year or part thereof until an agent is appointed. The Secretary of  
45 State may issue a certificate to the Clerk of the Superior Court that the  
46 limited liability company is indebted for the payment of this penalty.

1 This certificate shall be entered by the Clerk as a judgment docketed  
2 in the Superior Court, and shall have the same form as a docketed  
3 judgment.] (~~Deleted by amendment, P.L. , c. .~~)

4 (4) [If a certificate of change replacing a resigned agent is not filed  
5 within two years from the effective date of the resignation, the  
6 certificate of formation of the limited liability company shall remain  
7 filed with the office of the Secretary of State but be transferred to an  
8 inactive list. A limited liability company whose certificate has been  
9 transferred to the inactive list shall remain a limited liability company  
10 formed under this act but no name reservations, transfers of reserved  
11 names or certificates of amendment may be filed until the limited  
12 liability company regains active status by making all required filings  
13 and payments. The transfer of the certificate of formation of a limited  
14 liability company to the inactive list shall have no effect on the liability  
15 of a member of a limited liability company.] (~~Deleted by amendment,~~  
16 ~~P.L. , c. .~~)

17 (cf: P.L.1993, c.210, s.7)

18

19 11. (New section) a. Every domestic limited liability company  
20 and every foreign limited liability company authorized to transact  
21 business in this State shall file in the Office of the Secretary of State,  
22 within the time prescribed by this section, an annual report, executed  
23 on behalf of the limited liability company, or executed by the  
24 registered agent, setting forth:

25 (1). The name of the limited liability company and, in the case of  
26 a foreign limited liability company, the jurisdiction of its formation;

27 (2) The address of the registered office of the limited liability  
28 company in this State, and the name of the registered agent in this  
29 State at that address;

30 (3) The name and addresses of the members, managers or officers,  
31 as applicable, of the limited liability company;

32 (4) The address of its main business or headquarters office; and

33 (5) The address of its principal business office in New Jersey, if  
34 any.

35 b. The Secretary of State shall designate a date for filing an annual  
36 report for each limited liability company required to submit a report  
37 pursuant to this section and shall annually notify the limited liability  
38 company of that not less than 60 days prior to that date. Each limited  
39 liability company shall file its report within 30 days before or 30 days  
40 after notification. A limited liability company shall not be required to  
41 file an annual report until one year after the effective date of its  
42 certificate of formation or registration.

43 c. The Secretary of State shall: furnish annual report forms; keep  
44 all reports filed in the Secretary's office; and prepare an alphabetical  
45 index thereof. The reports and index shall be open to public inspection  
46 at hours set by the Secretary of State.

1 d. If a domestic limited liability company fails to file an annual  
2 report for two consecutive years and after a written demand for the  
3 reports by certified mail to the limited liability company's last known  
4 main business address or headquarters, or to the address of its  
5 registered agent, the Secretary of State may issue a proclamation  
6 declaring that the certificate of formation of the limited liability  
7 company has been revoked and that all powers conferred by law upon  
8 it shall be thereafter inoperative and void. No limited liability  
9 company's certificate of formation shall be revoked pursuant to this  
10 subsection if, within 30 days after the giving of notice, it files the  
11 reports required by law and pays to the Secretary of State all fees due.  
12 A revocation shall have no effect on the liability of a member of a  
13 limited liability company.

14 e. If a foreign limited liability company fails to file an annual report  
15 with the Secretary of State for two consecutive years and after a  
16 written demand for the reports by certified mail to the limited liability  
17 company's last known main business address or headquarters, or to the  
18 address of its registered agent, the Secretary of State may issue a  
19 proclamation declaring that the certificate of registration of the limited  
20 liability company has been revoked and that all powers conferred by  
21 law upon it shall be thereafter inoperative and void. No limited  
22 liability company's certificate of registration shall be revoked pursuant  
23 to this subsection if, within 30 days after the giving of notice, it files  
24 the reports required by law and pays to the Secretary of State all fees  
25 due. A revocation shall have no effect on the liability of a member of  
26 a limited liability company.

27 f. If the certificate of formation of a domestic limited liability  
28 company or the certificate of registration of a foreign limited liability  
29 company has been revoked by proclamation, the certificate shall be  
30 reinstated by proclamation of the Secretary of State upon payment of  
31 all fees due to the Secretary of State, consisting of a reinstatement  
32 filing fee of \$50, current annual report fee, all delinquent annual report  
33 fees, and a reinstatement filing assessment of \$200. Reinstatement  
34 relates back to the date of the issuance of the proclamation revoking  
35 the certificate of formation or registration and validates all actions  
36 taken in the interim. If the name of a domestic or foreign limited  
37 liability company has become unavailable in the interim, the Secretary  
38 of State shall issue the certificate of formation or registration, as  
39 appropriate, upon the filing of an amendment to the certificate of  
40 formation by a domestic limited liability company to change its name  
41 to an available name or the filing of an amendment to the certificate of  
42 registration by a foreign limited liability company adopting an assumed  
43 name. The Secretary of State shall provide the forms necessary to  
44 effect annual report reinstatements.

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46 12. This act shall take effect immediately.

## STATEMENT

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This bill streamlines the procedures for revoking and reinstating the certificates issued by the Secretary of State which give authority to the following domestic and foreign entities to transact business in this State: for profit and not for profit corporations; limited partnerships; limited liability companies and limited liability partnerships.

This bill removes (1) the penalty imposed on any domestic or foreign for-profit or not-for-profit corporation which fails to file a certificate of change of its registered office or agent or its annual report and (2) the action which would result in the subsequent entry of the name of the corporation as a judgment debtor upon the Clerk of the Superior Court's record of docketed judgments.

The bill requires domestic and foreign limited liability companies to file an annual report with the Secretary of State. If a limited liability company fails to file an annual report as required under the bill and after a written demand for the annual report, the Secretary of State may issue a proclamation declaring the certificate of formatino, if a domestic limited liability company, or the certificate of registration, if a foreign limited liability company, has been revoked. The Secretary of State already has the authority to do the same with respect to the other entities.

The Secretary of State, under the bill, will reinstate an entity's certificate, if the entity pays all fees required. Under the bill, the fees vary according to the entity whose certificate is being reinstated, but include the following, as appropriate: a reinstatement filing fee; a tax clearance fee; current annual report fee; all delinquent annual report fees; current fee for filing a certificate and a reinstatement assessment.

The bill provides that, if the name of the entity has become unavailable in the period during which the entity's certificate was revoked, the entity may file an amended certificate changing its name, if a domestic entity, or taking an assumed name, if a foreign entity.

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Streamlines the revocation and reinstatement processes for certain entities.