

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)

36

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 paragarph
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.

Streamlines the revocation and reinstatement processes for certain entities.