

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 1398

By: Representative Sturch

For An Act To Be Entitled

AN ACT TO ESTABLISH A PROCEDURE FOR THE SECRETARY OF
STATE FOR REVOCATION OF AUTHORITY TO CONDUCT BUSINESS
IN ARKANSAS; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH A PROCEDURE FOR THE
SECRETARY OF STATE FOR REVOCATION OF
AUTHORITY TO CONDUCT BUSINESS IN
ARKANSAS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 4, Chapter 28, Subchapter 2, is amended to add an additional section to read as follows:

4-28-226. Grounds for revocation.

(a) As used in this section:

(1) "Past-due annual report" means an annual report that is due three (3) years before the year in which the year's filing is presented; and

(2)(A) "Revoke" means to remove any authority to do business in this state.

(B) If a nonprofit corporation is revoked, a nonprofit corporation or incorporators of the nonprofit corporation, may not:

(i) File any forms or documentation related to that nonprofit corporation;

(ii) File any initial forms or documentation with the Secretary of State to create a legal entity in this state; or

(iii) Obtain authority to do business in this state.



(b) The Secretary of State may commence a proceeding to revoke the charter of a nonprofit corporation authorized to transact business in this state if:

(1) The nonprofit corporation:

(A) Does not deliver its annual report to the Secretary of State within sixty (60) days after which the annual report is due; and

(B) The annual report is considered past due as determined by the Secretary of State;

(2) The nonprofit corporation does not pay any fees or penalties imposed by this chapter or any other law within sixty (60) days after the fees or penalties are due;

(3) The nonprofit corporation does not have a registered agent in this state for sixty (60) days or more;

(4) The nonprofit corporation does not file an appropriate notice with the Secretary of State within sixty (60) days of the change or resignation of the registered agent of the nonprofit corporation;

(5) An incorporator, director, officer, or agent of the nonprofit corporation signs a document he or she knew was false in any material respect with the intent that the document be delivered to the Secretary of State for filing; or

(6) The nonprofit corporation is dissolved or disappears as of the result of a merger or conversion.

(c)(1) A nonprofit corporation whose charter has been administratively revoked may apply to the Secretary of State for reinstatement within two (2) years after the effective date of the revocation on an application provided by the Secretary of State.

(2) The application shall include:

(A) The name of the nonprofit corporation;

(B) The effective date of the revocation; and

(C) Notice that the grounds for revocation either did not exist or have been corrected.

SECTION 2. Arkansas Code § 4-30-114 is amended to read as follows:
4-30-114. Annual reports.

(a) As used in this section:

(1) "Past-due annual report" means an annual report that is due

three (3) years before the year in which the year's filing is presented; and

(2)(A) "Revoke" means to remove any authority to do business in this state.

(B) If a cooperative corporation is revoked, the cooperative corporation or the incorporators of the cooperative corporation, shall not:

(i) Be allowed to file any forms or documentation related to that cooperative corporation;

(ii) Be able to file any initial forms or documentation with the Secretary of State to create a legal entity in this state; or

(iii) Be able to obtain authority to do business in this state.

(b)(1) Each A corporation organized under the provisions of this chapter shall make an annual report to the Secretary of State, as is required of other corporations.

(2) However, the cooperative corporation shall be required to report the names of its stockholders and the amount of the stock owned by each for such the years only as may be required by the Secretary of State.

(c)(1) An annual report shall be filed by July 1 of each year in the office of the Secretary of State.

(2) If the cooperative corporation does not deliver its annual report to the Secretary of State within sixty (60) days after its due date, it is past-due.

(d)(1) The Secretary of State may administratively revoke the charter of a cooperative corporation that fails to file an annual report when due or to pay the required filing fee.

(2) The Secretary of State shall provide the cooperative corporation at least sixty (60) days' written notice of intent to revoke the statement.

(3) The notice shall be mailed to the cooperative corporation at its chief executive office stated in the last filed annual report.

(4) The notice shall specify:

(A) The annual report has not been filed;

(B) The required filing fee has not been paid; and

(C) The effective date of the revocation.

(5) The revocation shall not become effective if before the effective date of the revocation, the cooperative corporation:

(A) Files its annual report; and

(B) Pays the fee.

(e)(1) A cooperative corporation whose charter has been administratively revoked may apply to the Secretary of State for reinstatement within two (2) years after the effective date of the revocation.

(2) The application under subdivision (e)(1) of this section shall require the following information:

(A) The name of the cooperative corporation and the effective date of the revocation; and

(B) That the ground for revocation either did not exist or has been corrected.

SECTION 3. Arkansas Code § 4-46-1003 is amended to read as follows:

4-46-1003. Annual report.

(a) As used in this section:

(1) "Past-due annual report" means an annual report that is due three (3) years before the year in which the year's filing is presented; and

(2)(A) "Revoke" means to remove any authority to do business in this state.

(B) If a limited liability partnership is revoked, a limited liability partnership or individual partners of the limited liability partnership, may not:

(i) file any forms or documentation related to that limited liability partnership;

(ii) file any initial forms or documentation with the Secretary of State to create a legal entity in this state; or

(iii) obtain authority to do business in this state.

(b) A limited liability partnership, and a foreign limited liability partnership authorized to transact business in this State, shall file an annual report in the office of the Secretary of State which contains:

(1) the name of the limited liability partnership and the state or other jurisdiction under whose laws the foreign limited liability partnership is formed;

(2) the current street address of the partnership's chief executive office and, if different, the current street address of an office in this State, if any; and

(3) if there is no current office in this State, the information required by § 4-20-105(a).

~~(b)~~(c)(1) An annual report ~~must~~ shall be filed between January 1 and April 1 of each year following the calendar year in which a partnership files a statement of qualification or a foreign partnership becomes authorized to transact business in this State.

(2) an annual report that is filed with the Secretary of State after midnight on April 1 of a calendar year is past due.

~~(e)~~(d)(1) The Secretary of State may administratively revoke the statement of qualification of a partnership that fails to file an annual report when due or to pay the required filing fee.

(2) The the Secretary of State shall provide the partnership at least sixty (60) days' written notice of intent to revoke the statement.

(3) The the notice ~~must~~ shall be mailed to the partnership at its chief executive office set forth in the last filed statement of qualification or annual report.

(4) The the notice ~~must~~ shall specify that the annual report that:

(A) has the annual report has not been filed;

(B) the the required filing fee that has not been paid;

and

(C) the The effective date of the revocation.

(5) The revocation is not effective if the annual report is filed and the fee is paid before the effective date of the revocation.

~~(d)~~(e) A revocation under ~~subsection (e)~~ subsection (d) of this section only affects a partnership's status as a limited liability partnership and is not an event of dissolution of the partnership.

~~(e)~~(f)(1) A partnership whose statement of qualification has been administratively revoked may apply to the Secretary of State for reinstatement within two (2) years after the effective date of the revocation.

(2) The application ~~must~~ shall state:

~~(1)~~(A) the name of the partnership and the effective date

of the revocation; and

~~(2)~~(B) that the ground for revocation either did not exist or has been corrected.

~~(f)~~(g) A reinstatement under ~~subsection (e)~~ subsection (f) of this section ~~relates back to and~~ takes effect as of the effective date of the revocation, and the partnership's status as a limited liability partnership continues as if the revocation had never occurred.

SECTION 4. Arkansas Code § 4-47-210 is amended to read as follows:
4-47-210. Annual report for Secretary of State.

(a) As used in this section:

(1) "Past-due annual report" means an annual report that is due three (3) years before the year in which the year's filing is presented; and

(2)(A) "Revoke" means to remove any authority to do business in this state.

(B) If a limited partnership is revoked, a limited partnership or individual partners of the limited partnership may not:

(i) file any forms or documentation related to that limited partnership;

(ii) file any initial forms or documentation with the Secretary of State to create a legal entity in this state; or

(iii) obtain authority to do business in this state.

(b) A limited partnership or a foreign limited partnership authorized to transact business in this State shall deliver to the Secretary of State for filing an annual report that states:

(1) the name of the limited partnership or foreign limited partnership;

(2) the street and mailing address of its designated office and the information concerning its agent for service of process required by § 4-20-105(a);

(3) in the case of a foreign limited partnership, the street and mailing address of its principal office; and

(4) in the case of a foreign limited partnership, the State or other jurisdiction under whose law the foreign limited partnership is formed and any alternate name adopted under § 4-47-905(a).

~~(b)~~(c) Information in an annual report ~~must~~ shall be current as of the

date the annual report is delivered to the Secretary of State for filing.

~~(e)~~(d) The first annual report ~~must~~ shall be delivered to the Secretary of State between January 1 and May 1 of the year following the calendar year in which a limited partnership was formed or a foreign limited partnership was authorized to transact business. An annual report ~~must~~ shall be delivered to the Secretary of State between January 1 and May 1 of each subsequent calendar year.

~~(d)~~(e) If an annual report does not contain the information required in ~~subsection (a)~~ subsection (b) of this section, the Secretary of State shall promptly notify the reporting limited partnership or foreign limited partnership and return the report to it for correction. If the report is corrected to contain the information required in ~~subsection (a)~~ subsection (b) of this section and delivered to the Secretary of State within ~~30~~ thirty (30) days after the effective date of the notice, it is timely delivered.

~~(e)~~(f) If a filed annual report contains an address of the designated office or information provided under ~~subdivision (a)(2)~~ subdivision (b)(2) of this section which differs from the information shown in the records of the Secretary of State immediately before the filing, the differing information in the annual report is considered a statement of change under § 4-20-108.

(g)(1) The Secretary of State may administratively revoke the statement of qualification of a limited partnership that fails to file an annual report when due or pay the required filing fee.

(2) The Secretary of State shall provide the limited partnership a minimum of sixty (60) days' written notice of intent to revoke.

(3) The notice shall be mailed to the limited partnership at its chief executive office as stated in the most recent:

(A) Filed statement of qualification; or

(B) Annual report.

(4) The notice shall specify:

(A) the annual report has not been filed;

(B) the required filing fee has not been paid; and

(C) The effective date of the revocation.

(5) The revocation is not effective if, before the effective date of the revocation, the:

(A) annual report is filed; and

(B) the required filing fee is paid.

(h) A revocation under subsection (g) of this section affects only a limited partnership's status as a limited partnership and is not an event of dissolution of the partnership.

(i)(1) A limited partnership whose statement of qualification has been administratively revoked may apply to the Secretary of State for reinstatement within two (2) years after the effective date of the revocation.

(2) The application shall state:

(A) the name of the limited partnership;

(B) the effective date of the revocation;

(C) that the grounds for the revocation did not exist; or

(D) that the grounds for the revocation have been

corrected.

(j) A reinstatement under subsection (i) of this section becomes retroactive and effective as of the effective date of the revocation, and the partnership's status as a limited partnership continues as if the revocation never occurred.