

ENROLLED ACT NO. 58, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING  
2008 BUDGET SESSION

AN ACT relating to business entities; providing a penalty for filing a false document; providing for forfeiture of limited liability company articles of organization; providing for administrative dissolution of corporations; providing for fees; providing for revocation of authority for foreign corporations; providing for interim classifications; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 6-5-308 is created to read:

**6-5-308. Penalty for filing false document.**

(a) A person commits a felony punishable by imprisonment for not more than two (2) years, a fine of not more than two thousand dollars (\$2,000.00), or both, if he files with the secretary of state and willfully or knowingly:

(i) Falsifies, conceals or covers up by any trick, scheme or device a material fact;

(ii) Makes any materially false, fictitious or fraudulent statement or representation; or

(iii) Makes or uses any false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry.

**Section 2.** W.S. 17-15-112, 17-16-1420(a)(iv), by creating new paragraphs (vi) and (vii) and by creating a new subsection (b), 17-16-1421(a) and (b), 17-16-1422(a)(iv) and by creating a new paragraph (v), 17-16-1530(a)(iv), by creating a new paragraph (v), by

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renumbering (v) as (vi) and by creating a new subsection (b), 17-16-1531(a) and (b), 17-19-1420(a)(iv), by creating new paragraphs (vi) and (vii) and by creating a new subsection (b), 17-19-1421(a) and (b), 17-19-1422(a)(iv) and by creating a new paragraph (v), 17-19-1530(a)(iv), by creating new paragraphs (vi) and (vii) and by creating a new subsection (c) and 17-19-1531(a) and (c) are amended to read:

**17-15-112. Administrative forfeiture of authority and certificate of organization.**

(a) If any limited liability company has failed for thirty (30) days to appoint and maintain a registered agent in this state, or has failed for thirty (30) days after change of its registered office or registered agent to file in the office of the secretary of state a statement of the change it shall be deemed to be transacting business within this state without authority and to have forfeited any franchises, rights or privileges acquired under the laws thereof and the forfeiture shall be made effective in the following manner. The secretary of state shall mail by certified mail a notice of its failure to comply with aforesaid provisions. Unless compliance is made within thirty (30) days of the delivery of notice, the limited liability company shall be deemed defunct and to have forfeited its certificate of organization acquired under the laws of this state. Provided, that any defunct limited liability company may at any time within two (2) years after the forfeiture of its certificate, in the manner herein provided, be revived and reinstated, by filing the necessary statement under this act and paying a reinstatement fee established by the secretary of state by rule, together with a penalty of ~~one hundred dollars (\$100.00)~~ two hundred fifty dollars (\$250.00). The reinstatement fee shall not exceed the costs of providing

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the reinstatement service. The limited liability company shall retain its registered name during the two (2) year reinstatement period under this section.

(b) If any limited liability company has failed to pay the tax required by W.S. 17-15-132(a)(vi) it shall be deemed to be transacting business within this state without authority and to have forfeited any franchises, rights or privileges acquired under the laws thereof. The forfeiture shall be made effective in the following manner. The secretary of state shall provide notice to the limited liability company at its last known mailing address by first class mail. ~~and publish once a week for two (2) consecutive weeks in a newspaper of general circulation in the county in which the registered office of the company is located, notice that the company failed to comply with W.S. 17-15-132(a)(vi).~~ Unless compliance is made within sixty (60) days of the date of ~~the first publication,~~ notice the limited liability company shall be deemed defunct and to have forfeited its certificate of organization acquired under the laws of this state. Provided, that any defunct limited liability company may at any time within two (2) years after the forfeiture of its certificate, be revived and reinstated by paying double the amount of the delinquent taxes. When the reinstatement is effective, it relates back to and takes effect as of the effective date deemed defunct pursuant to this subsection and the limited liability company resumes carrying on its business as if it had never been deemed defunct.

(c) A limited liability company shall be deemed to be transacting business within this state without authority, to have forfeited any franchises, rights or privileges acquired under the laws thereof and shall be deemed defunct and to have forfeited its certificate of organization acquired under the laws of this state, and the forfeiture

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shall be made effective in the manner provided in subsection (a) of this section, if:

(i) A member of the limited liability company signed a document he knew was false in any material respect with intent that the document be delivered to the secretary of state for filing;

(ii) The limited liability company has failed to respond to a valid and enforceable subpoena; or

(iii) It is in the public interest and the limited liability company or any of its members:

(A) Failed to provide records to the registered agent as required in this act;

(B) Has provided fraudulent information or has failed to correct false information upon request of the secretary of state on any filing with the secretary of state under this act; or

(C) Cannot be served by either the registered agent or by mail by the secretary of state acting as the agent for process.

(d) The secretary of state may classify a limited liability company as delinquent awaiting forfeiture of its certificate of organization at the time the secretary of state mails the notice required under subsections (a) through (c) of this section to the limited liability company.

**17-16-1420. Grounds for administrative dissolution.**

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(a) The secretary of state may commence a proceeding under W.S. 17-16-1421 to administratively dissolve a corporation if:

(iv) The corporation does not deliver its annual reports or pay the annual license taxes to the secretary of state when due pursuant to W.S. 17-16-1630; ~~or~~

(vi) An incorporator, director, officer or agent of the corporation signed a document he knew was false in any material respect with intent that the document be delivered to the secretary of state for filing; or

(vii) The corporation has failed to respond to a valid and enforceable subpoena.

(b) Prior to commencing a proceeding under W.S. 17-16-1421 the secretary of state may classify a corporation as delinquent awaiting administrative dissolution if the corporation meets any of the criteria in subsection (a) of this section.

**17-16-1421. Procedure for and effect of administrative dissolution.**

(a) If the secretary of state determines that one (1) or more grounds exist under W.S. 17-16-1420 for dissolving a corporation, he shall serve the corporation with written notice of his determination under W.S. 17-16-504, except for W.S. 17-16-1420(a)(iii) in which case dissolution is by choice and therefore automatic. ~~and W.S. 17-16-1420(a)(iv) in which case notice of the proposed dissolution shall be given only as provided in subsection (c) of this section.~~

(b) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable

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satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty (60) days after service of the notice is perfected under W.S. 17-16-504, the secretary of state shall administratively dissolve the corporation by signing, either manually or in facsimile, a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the corporation under W.S. 17-16-504. ~~The provisions of subsection (c) of this section shall govern the procedures for dissolution pursuant to W.S. 17-16-1420(a)(iv).~~

**17-16-1422. Reinstatement following administrative dissolution.**

(a) A corporation administratively dissolved under W.S. 17-16-1421 may apply to the secretary of state for reinstatement within two (2) years after the effective date of dissolution. Reinstatement may be denied by the secretary of state if the corporation has been the subject of secretary of state and law enforcement investigation pertaining to fraud or any other violation of state or federal law, or if there is other reason to believe the corporation was engaged in illegal operations. The application shall:

(iv) If the corporation was administratively dissolved for failing to deliver its annual report or pay the annual license taxes to the secretary of state when due pursuant to W.S. 17-16-1630, include payment of a sum equal to double the amount of fees and taxes then delinquent and a reinstatement certificate fee prescribed pursuant to W.S. 17-16-122; ~~and~~ and

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(v) If the corporation was administratively dissolved for failure to maintain a registered agent, include payment of a two hundred fifty dollar (\$250.00) reinstatement fee and payment of a sum equal to double the amount of any fees and taxes then delinquent.

**17-16-1530. Grounds for revocation.**

(a) The secretary of state may commence a proceeding under W.S. 17-16-1531 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

(iv) The corporation does not deliver its annual reports or pay the annual license taxes to the secretary of state when due pursuant to W.S. 17-16-1630;~~or~~

(v) The corporation has failed to respond to a valid and enforceable subpoena; or

~~(v)~~(vi) It is in the public interest and the corporation:

(A) Has provided fraudulent information or has failed to correct false information upon request of the secretary of state on any filing under this act with the secretary of state; or

(B) Cannot be served by either the registered agent or by mail by the secretary of state acting as the agent for process.

(b) Prior to commencing a proceeding under W.S. 17-16-1531 the secretary of state may classify a foreign corporation as delinquent awaiting administrative

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revocation if the foreign corporation meets any of the  
criteria in subsection (a) of this section.

**17-16-1531. Procedure for and effect of revocation.**

(a) If the secretary of state determines that one (1) or more grounds exist under W.S. 17-16-1530 for revocation of a certificate of authority, he shall serve the foreign corporation with written notice of his determination under W.S. 17-16-1510, ~~except for revocation pursuant to W.S. 17-16-1530(a)(iv) in which case notice of the proposed revocation shall be given only as provided in subsection (f) of this section.~~

(b) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty (60) days after service of the notice is perfected under W.S. 17-16-1510, the secretary of state may revoke the foreign corporation's certificate of authority by signing, either manually or in facsimile, a certificate of revocation that recites the ground or grounds for revocation and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the foreign corporation under W.S. 17-16-1510. ~~The provisions of subsection (f) of this section shall govern the procedures for revocation pursuant to W.S. 17-16-1530(a)(iv).~~

**17-19-1420. Grounds for administrative dissolution.**

(a) The secretary of state may commence a proceeding under W.S. 17-19-1421 to administratively dissolve a corporation if:



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(iv) The corporation does not deliver its annual reports or pay the annual license taxes to the secretary of state when due pursuant to W.S. 17-19-1630;~~or~~

(vi) An incorporator, director, officer or agent of the corporation signed a document he knew was false in any material respect with intent that the document be delivered to the secretary of state for filing; or

(vii) The corporation has failed to respond to a valid and enforceable subpoena.

(b) Prior to commencing a proceeding under W.S. 17-19-1421 the secretary of state may classify a corporation as delinquent awaiting administrative dissolution if the corporation meets any of the criteria in subsection (a) of this section.

**17-19-1421. Procedure for and effect of administrative dissolution.**

(a) Upon determining that one (1) or more grounds exist under W.S. 17-19-1420 for dissolving a corporation, the secretary of state shall serve the corporation with written notice of that determination under W.S. 17-19-504 ~~except for dissolution pursuant to W.S. 17-19-1420(a)(iv) in which case notice of the proposed dissolution shall be given only as provided in subsection (e) of this section.~~ In the case of a public benefit corporation the secretary of state shall also notify the attorney general in writing.

(b) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within at least sixty (60) days after service of the notice is

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perfected under W.S. 17-19-504, the secretary of state may administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the corporation under W.S. 17-19-504, and in the case of a public benefit corporation shall notify the attorney general in writing.—~~The provisions of subsection (e) of this section shall govern the procedures for dissolution pursuant to W.S. 17-19-1420(a)(iv).~~

**17-19-1422. Reinstatement following administrative dissolution.**

(a) A corporation administratively dissolved under W.S. 17-19-1421 may apply to the secretary of state for reinstatement within two (2) years after the effective date of dissolution. Reinstatement may be denied by the secretary of state if the corporation has been the subject of secretary of state and law enforcement investigation pertaining to fraud or any other violation of state or federal law, or if there is other reason to believe the corporation was engaged in illegal operations. The application shall:

(iv) If the corporation was administratively dissolved for failing to deliver its annual report or pay the annual license taxes to the secretary of state when due pursuant to W.S. 17-19-1630, include payment of a sum equal to double the amount of fees and taxes then delinquent and the reinstatement certificate fee prescribed by W.S. 17-19-122;~~;~~ and

(v) If the corporation was administratively dissolved for failure to maintain a registered agent,

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include payment of a one hundred fifty dollar (\$150.00) reinstatement fee and payment of a sum equal to double the amount of any fees and taxes then delinquent.

**17-19-1530. Grounds for revocation.**

(a) The secretary of state may commence a proceeding under W.S. 17-19-1531 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

(iv) The secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated stating that it has been dissolved or disappeared as the result of a merger; ~~or~~

(vi) The corporation has failed to respond to a valid and enforceable subpoena; or

(vii) It is in the public interest and the corporation:

(A) Has provided fraudulent information or has failed to correct false information upon request of the secretary of state on any filing with the secretary of state under this act; or

(B) Cannot be served by either the registered agent or by mail by the secretary of state acting as the agent for process.

(c) Prior to commencing a proceeding under W.S. 17-19-1531 the secretary of state may classify a foreign corporation as delinquent awaiting administrative

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revocation if the foreign corporation meets any of the  
criteria in subsection (a) of this section.

**17-19-1531. Procedure and effect of revocation.**

(a) The secretary of state upon determining that one (1) or more grounds exist under W.S. 17-19-1530 for revocation of a certificate of authority shall serve the foreign corporation with written notice of that determination under W.S. 17-19-1510., ~~except for revocation pursuant to W.S. 17-19-1530(a)(v) in which case notice of the proposed revocation shall be given only as provided in subsection (g) of this section.~~

(c) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state or attorney general that each ground for revocation determined by the secretary of state or attorney general does not exist within sixty (60) days after service of the notice is perfected under W.S. 17-19-1510, the secretary of state may revoke the foreign corporation's certificate of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the foreign corporation under W.S. 17-19-1510. ~~The provisions of subsection (g) of this section shall govern the procedures for revocation pursuant to W.S. 17-19-1530(a)(v).~~

**Section 3.** W.S. 17-16-129, 17-16-1421(e), 17-16-1531(f), 17-19-1421(e), 17-19-1531(g) and 17-27-101(b) are repealed.

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**Section 4.** This act is effective January 1, 2009.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

\_\_\_\_\_  
Chief Clerk