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SENATE BILL 994
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Short Title: Corporation Omnibus/AB.

(Public)

Sponsors: Senators Cooper and Kerr.

Referred to: Appropriations

May 4, 1995

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT ANNUAL REPORTS OF BUSINESS
2 CORPORATIONS AND LIMITED LIABILITY COMPANIES SHALL BE FILED
3 WITH THE DEPARTMENT OF REVENUE RATHER THAN THE SECRETARY
4 OF STATE, TO ESTABLISH FEES FOR EXPEDITED FILINGS, TO PROVIDE
5 THAT NONPROFIT CORPORATIONS ARE NOT REQUIRED TO FILE
6 ANNUAL REPORTS, TO ALLOW THE SECRETARY OF STATE TO RETAIN
7 FILED DOCUMENTS IN REPRODUCED FORM, TO EXTEND THE DEADLINE
8 TO ALLOW THE REINSTATEMENT OF DISSOLVED CORPORATIONS, AND
9 TO PREVENT THE USE OF DUPLICATE CORPORATE NAMES.
10

11 The General Assembly of North Carolina enacts:

12 PART I. CORPORATIONS.

13 Section 1. G.S. 55-16-22 reads as rewritten:

14 "**§ 55-16-22. Annual report for Secretary of State-Revenue.**

15 (a) Each domestic corporation except those governed by Chapter 55B, and each
16 foreign corporation authorized to transact business in this State, shall deliver to the
17 Secretary of ~~State Revenue~~ for filing an annual report-report, in a form prescribed by the
18 Secretary of Revenue, that sets forth:

- 1 (1) The name of the corporation and the state or country under whose law it
2 is ~~incorporated;~~ incorporated, and a telephone number by which the
3 person in charge of the management of the corporation may be
4 contacted;
5 (2) The street address, and the mailing address if different from the street
6 address, of the registered office, the county in which its registered office
7 is located, and the name of its registered agent at that office in this State,
8 and a statement of any change of such registered office or registered
9 agent, or both;
10 (3) The address of its principal office;
11 (4) ~~The names, titles, and business addresses~~ name, title, and business address
12 of its principal officers; president or chief executive officer; and
13 (4a) ~~The names and business addresses of its directors; and~~
14 (5) A brief description of the nature of its business.

15 If the information contained in the most recently filed annual report has not changed, a
16 certification to that effect may be made instead of setting forth the information required
17 by subdivisions (2) through (5) of this subsection.

18 (b) Information in the annual report must be current as of the date the annual
19 report is executed on behalf of the corporation.

20 (c) The annual report shall be delivered to the Secretary of ~~State~~ each year
21 Revenue within 60 days immediately following the last day of the month in which the
22 domestic corporation was incorporated or the foreign corporation received a certificate of
23 authority in this State. by the due date, including any approved extensions, for filing the
24 corporation's income and franchise tax returns. Forms required for the filing of the
25 annual report shall be mailed by the Secretary of State to the domestic or foreign
26 corporation at its registered office for the first annual report, then to its principal office
27 for subsequent annual reports. Forms required for the filing of subsequent annual reports
28 shall be made available by the Secretary of Revenue.

29 (d) If an annual report does not contain the information required by this section,
30 the Secretary of ~~State~~ Revenue shall promptly notify the reporting domestic or foreign
31 corporation in writing and return the report to it for correction. If the report is corrected
32 to contain the information required by this section and delivered to the Secretary of ~~State~~
33 Revenue within 30 days after the effective date of notice, it is deemed to be timely filed.
34 The Secretary of Revenue shall notify the Secretary of State promptly of any corporation
35 that fails to file a timely report.

36 (e) Amendments to any previously filed annual report may be filed at any time for
37 the purpose of correcting, updating, or augmenting the information contained in such
38 annual report. Any person dealing with a corporation or a foreign corporation may rely
39 conclusively upon its most recent annual report and any amendments thereto filed with
40 the Secretary of Revenue pursuant to G.S. 55-16-22 as to the identity of its president or
41 chief executive officer, except to the extent the person has actual knowledge that the
42 person identified therein as the president or chief executive officer is not that officer.

43 (f) Expired."

- 1 Sec. 2. G.S. 55-1-21(a) reads as rewritten:
 2 "(a) The Secretary of State may promulgate and furnish on request forms for:
 3 (1) An application for a certificate of existence;
 4 (2) A foreign corporation's application for a certificate of authority to
 5 transact business in this State; and
 6 (3) A foreign corporation's application for a certificate of ~~withdrawal~~; and
 7 withdrawal.
 8 (4) ~~The annual report.~~

9 If the Secretary of State so requires, use of these forms is mandatory."

10 Sec. 3. G.S. 55-1-22 reads as rewritten:

11 **"§ 55-1-22. Filing, service, and copying fees.**

12 (a) The Secretary of State shall collect the following fees when the documents
 13 described in this subsection are delivered to ~~him~~ the Secretary for filing:

Document	Fee
(1) Articles of incorporation	\$100.00
(2) Application for reserved name	10.00
(3) Notice of transfer of reserved name	10.00
(4) Application for registered name	10.00
(5) Application for renewal of registered name	10.00
(6) Corporation's statement of change of registered agent or registered office or both	5.00
(7) Agent's statement of change of registered office for each affected corporation	5.00
(8) Agent's statement of resignation	No fee
(9) Designation of registered agent or registered office or both	5.00
(10) Amendment of articles of incorporation	50.00
(11) Restated articles of incorporation with amendment of articles	10.00 50.00
(12) Articles of merger or share exchange	50.00
(13) Articles of dissolution	30.00
(14) Articles of revocation of dissolution	10.00
(15) Certificate of administrative dissolution	No fee
(16) Application for reinstatement following administrative dissolution	25.00
(17) Certificate of reinstatement	No fee
(18) Certificate of judicial dissolution	No fee

- 1 (19) Application for certificate of
2 authority 200.00
3 (20) Application for amended certificate
4 of authority 50.00
5 (21) Application for certificate of
6 withdrawal 10.00
7 (22) Certificate of revocation of
8 authority to transact business No fee
9 ~~(23) Annual report 10.00~~
10 (24) Articles of correction 10.00
11 (25) Application for certificate of
12 existence or authorization 5.00
13 (26) Any other document required or
14 permitted to be filed by this Chapter 10.00.

15 (b) The Secretary of State shall collect a fee of ten dollars (\$10.00) each time
16 process is served on ~~him~~ the Secretary under this Chapter. The party to a proceeding
17 causing service of process is entitled to recover this fee as costs if ~~he~~ the party prevails in
18 the proceeding.

19 (c) The Secretary of State shall collect the following fees for copying, comparing,
20 and certifying a copy of any filed document relating to a domestic or foreign corporation:

- 21 (1) One dollar (\$1.00) a page for copying or comparing a copy to the
22 original; and
23 (2) Five dollars (\$5.00) for the certificate."

24 Sec. 4. Article 1 of Chapter 55 of the General Statutes is amended by adding a
25 new section to read:

26 "**§ 55-1-22.1. Expedited filings.**

27 The Secretary of State shall guarantee the expedited filing of a document upon receipt
28 of the document in proper form and the payment of the required filing fee. The Secretary
29 of State may collect the following additional fees for the expedited filing of a document
30 received in good form:

- 31 (1) Two hundred dollars (\$200.00) for the filing by the end of the same
32 business day of a document received by 12:00 noon Eastern Standard
33 Time; and
34 (2) One hundred dollars (\$100.00) for the filing of a document within 24
35 hours after receipt, excluding weekends and holidays.

36 The Secretary of State shall not collect the fees allowed in this section unless the person
37 submitting the document for filing requests an expedited filing and is informed by the
38 Secretary of State of the fees prior to the filing of the document."

39 Sec. 5. G.S. 55-1-25 reads as rewritten:

40 "**§ 55-1-25. Filing duty of Secretary of State.**

41 (a) If a document delivered to the office of the Secretary of State for filing satisfies
42 the requirements of this Chapter, the Secretary of State shall file it. Documents filed with
43 the Secretary of State pursuant to this Chapter may be maintained by the Secretary either

1 in their original form or in photographic, microfilm, optical disk media, or other
2 reproduced form. The Secretary may make reproductions of documents filed under this
3 Chapter, or under any predecessor act, by photographic, microfilm, optical disk media, or
4 other means of reproduction, and may destroy the originals of those documents
5 reproduced.

6 (b) The Secretary of State files a document by stamping or otherwise endorsing
7 'Filed', together with ~~his~~the Secretary's name and official title and the date and time of
8 filing, on both the original and the document copy. After filing a document, except as
9 provided in G.S. 55-5-03 and G.S. 55-15-09, the Secretary of State shall deliver the
10 document copy to the domestic or foreign corporation or its representative.

11 (c) If the Secretary of State refuses to file a document, ~~he~~the Secretary shall return
12 it, by personal delivery or by first-class mail postage prepaid, to the domestic or foreign
13 corporation or its representative within five days after the document was received,
14 together with a brief, written statement of the date and the reason for ~~his~~-refusal. The
15 Secretary of State may correct apparent errors and omissions on a document submitted
16 for filing if authorized to make the corrections by the person submitting the document for
17 filing. The authorization to make the corrections shall be confirmed, according to
18 procedures adopted by rule, by the Secretary prior to making the correction.

19 (d) The Secretary of State's duty is to review and file documents that satisfy the
20 requirements of this Chapter. ~~His~~The Secretary of State's filing or refusing to file a
21 document does not:

- 22 (1) Except as provided in G.S. 55-2-03(b), affect the validity or invalidity
23 of the document in whole or part;
- 24 (2) Relate to the correctness or incorrectness of information contained in
25 the document;
- 26 (3) Create a presumption that the document is valid or invalid or that
27 information contained in the document is correct or incorrect."

28 Sec. 6. G.S. 55-1-27 reads as rewritten:

29 "**§ 55-1-27. Evidentiary effect of copy of filed document.**

30 A certificate attached to a copy of a document filed by the Secretary of State, bearing
31 ~~his~~the Secretary of State's signature (which may be in facsimile) and the seal of ~~his~~ office
32 and certifying that ~~said~~the copy is a true copy of ~~said~~the document, is conclusive
33 evidence that the original document is on file with the Secretary of State. A
34 photographic, microfilm, optical disk media, or other reproduced copy of a document
35 filed pursuant to this Chapter or any predecessor act, when certified by the Secretary,
36 shall be considered an original for all purposes and is admissible in evidence in like
37 manner as an original."

38 Sec. 7. G.S. 55-1-28(a)(4) reads as rewritten:

39 "(4) That its most recent annual report required by G.S. 55-16-22 has been
40 delivered to the Secretary of ~~State~~Revenue."

41 Sec. 8. G.S. 55-1-41(d) reads as rewritten:

42 "(d) Written notice to a domestic or foreign corporation (authorized to transact
43 business in this State) may be addressed to its registered agent at its registered office or to

1 the corporation or its secretary at its principal office shown in its most recent annual
2 report on file in the office of the Secretary of ~~State Revenue~~ or, in the case of a foreign
3 corporation that has not yet delivered an annual report, in its application for a certificate
4 of authority."

5 Sec. 9. G.S. 55-4-01(b) reads as rewritten:

6 "(b) Except as authorized by subsection ~~(e)~~, (c) of this section, a corporate name
7 must be distinguishable upon the records of the Secretary of State from:

8 (1) The corporate name of a corporation incorporated or authorized to
9 transact business in this State;

10 (2) A corporate name reserved or registered under G.S. 55-4-02 or ~~G.S. 55-~~
11 4-03;

12 (3) The fictitious name adopted by a foreign corporation authorized to
13 transact business in this State because its real name is unavailable; ~~and~~

14 (4) The corporate name of a nonprofit corporation incorporated or
15 authorized to transact business in this ~~State~~. State; and

16 (5) The name used, reserved, or registered by a limited liability company
17 pursuant to Chapter 57C of the General Statutes or by a limited
18 partnership pursuant to Chapter 59 of the General Statutes."

19 Sec. 10. G.S. 55-4-01(g) reads as rewritten:

20 "(g) The name of a corporation dissolved under Article 14 may not be used by
21 another corporation ~~until the expiration of two years after the effective date of the~~
22 ~~dissolution unless the dissolved corporation consents in writing to the use.~~ until:

23 (1) In the case of a voluntary dissolution, the expiration of 120 days after
24 the effective date of the dissolution, or

25 (2) In the case of an administrative dissolution, the expiration of the period
26 within which the corporation may be reinstated pursuant to G.S. 55-14-
27 21,

28 unless the dissolved corporation changes its name to a name that is distinguishable upon
29 the records of the Secretary of State from the names of other business corporations,
30 nonprofit corporations, limited partnerships, or limited liability companies organized or
31 transacting business in this State."

32 Sec. 11. G.S. 55-14-20(2) reads as rewritten:

33 "(2) The corporation does not deliver its annual report to the Secretary of
34 State ~~within 60 days after it is due;~~ Revenue."

35 Sec. 12. G.S. 55-14-22(a) reads as rewritten:

36 "(a) A corporation administratively dissolved under G.S. 55-14-21 may apply to the
37 Secretary of State for reinstatement ~~within two years~~ after the effective date of dissolution.
38 The application must:

39 (1) Recite the name of the corporation and the effective date of its
40 administrative dissolution; and

41 (2) State that the ground or grounds for dissolution either did not exist or
42 have been ~~eliminated;~~ eliminated.

43 ~~(3) Reserved for future codification purposes; and~~

1 ~~(4) Contain a certificate from the Department of Revenue reciting that all~~
 2 ~~taxes owed by the corporation have been paid."~~

3 Sec. 13. Effective July 1, 1996, G.S. 55-14-22(a), as amended by Section 12
 4 of this act, reads as rewritten:

5 "(a) A corporation administratively dissolved under G.S. 55-14-21 may apply to the
 6 Secretary of State for reinstatement within two years after the effective date of
 7 dissolution. The application must:

8 (1) Recite the name of the corporation and the effective date of its
 9 administrative dissolution; and

10 (2) State that the ground or grounds for dissolution either did not exist or
 11 have been eliminated."

12 Sec. 14. G.S. 55-15-30(a)(1) reads as rewritten:

13 "(1) The foreign corporation does not deliver its annual report to the
 14 Secretary of State ~~within 60 days after it is due;~~ Revenue."

15 Sec. 15. G.S. 55-16-01(e)(7) reads as rewritten:

16 "(7) Its most recent annual report delivered to the Secretary of State Revenue
 17 under G.S. 55-16-22."

18 PART II. NONPROFIT CORPORATIONS.

19 Sec. 16. G.S. 55A-16-22 is repealed.

20 Sec. 17. G.S. 55A-1-21(a) reads as rewritten:

21 "(a) The Secretary of State may promulgate and furnish on request forms for:

22 (1) An application for a certificate of existence;

23 (2) A foreign corporation's application for a certificate of authority to
 24 conduct affairs in this State; and

25 (3) A foreign corporation's application for a certificate of ~~withdrawal; and~~
 26 withdrawal.

27 ~~(4) The annual report.~~

28 If the Secretary of State so requires, use of these forms is mandatory."

29 Sec. 18. G.S. 55A-1-22 reads as rewritten:

30 **"§ 55A-1-22. Filing, service, and copying fees.**

31 (a) The Secretary of State shall collect the following fees when the documents
 32 described in this subsection are delivered to the Secretary for filing:

Document	Fee
(1) Articles of incorporation	\$50.00
(2) Application for reserved name	\$10.00
(3) Notice of transfer of reserved name	\$10.00
(4) Application for registered name	\$10.00
(5) Application for renewal of registered name	\$10.00
(6) Corporation's statement of change of registered agent or registered office or both	\$ 5.00
(7) Agent's statement of change of registered office for each affected corporation	\$ 5.00
(8) Agent's statement of resignation	No fee

- 1 (9) Designation of registered agent or registered office or both \$ 5.00
2 (10) Amendment of articles of incorporation \$25.00
3 (11) Restated articles of incorporation without amendment of articles
4 \$10.00
5 (12) Restated articles of incorporation with amendment of articles \$25.00
6 (13) Articles of merger \$25.00
7 (14) Articles of dissolution \$15.00
8 (15) Articles of revocation of dissolution \$10.00
9 (16) Certificate of administrative dissolution No fee
10 (17) Application for reinstatement following administrative dissolution
11 \$25.00
12 (18) Certificate of reinstatement No fee
13 (19) Certificate of judicial dissolution No fee
14 (20) Application for certificate of authority \$100.00
15 (21) Application for amended certificate of authority \$25.00
16 (22) Application for certificate of withdrawal \$10.00
17 (23) Certificate of revocation of authority to conduct affairs No
18 fee
19 (24) ~~Annual Report~~ Corporation's Statement of Change of Principal Office
20 ~~\$10.00~~ \$5.00
21 (24a) Designation of Principal Office Address \$5.00
22 (25) Articles of correction \$10.00
23 (26) Application for certificate of existence or authorization \$ 5.00
24 (27) Any other document required or permitted to be filed by this Chapter
25 \$10.00.

26 (b) The Secretary of State shall collect a fee of ten dollars (\$10.00) each time
27 process is served on the Secretary under this Chapter. The party to a proceeding causing
28 service of process is entitled to recover this fee as costs if the party prevails in the
29 proceeding.

30 (c) The Secretary of State shall collect the following fees for copying, comparing,
31 and certifying a copy of any filed document relating to a domestic or foreign corporation:

- 32 (1) One dollar (\$1.00) a page for copying or comparing a copy to the
33 original; and
34 (2) Five dollars (\$5.00) for the certificate."

35 Sec. 19. Article 1 of Chapter 55A of the General Statutes is amended by
36 adding a new section to read:

37 **"§ 55A-1-22.1. Expedited filings.**

38 The Secretary of State shall guarantee the expedited filing of a document upon receipt
39 of the document in proper form and the payment of the required filing fee. The Secretary
40 of State may collect the following additional fees for the expedited filing of a document
41 received in good form:

1 (1) Two hundred dollars (\$200.00) for the filing by the end of the same
2 business day of a document received by 12:00 noon Eastern Standard
3 Time; and

4 (2) One hundred dollars (\$100.00) for the filing of a document within 24
5 hours after receipt, excluding weekends and holidays.

6 The Secretary of State shall not collect the fees allowed in this section unless the person
7 submitting the document for filing requests an expedited filing and is informed by the
8 Secretary of State of the fees prior to the filing of the document."

9 Sec. 20. G.S. 55A-1-25 reads as rewritten:

10 **"§ 55A-1-25. Filing duty of Secretary of State.**

11 (a) If a document delivered to the office of the Secretary of State for filing satisfies
12 the requirements of this Chapter, the Secretary of State shall file it. Documents filed with
13 the Secretary of State pursuant to this Chapter may be maintained by the Secretary either
14 in their original form or in photographic, microfilm, optical disk media, or other
15 reproduced form. The Secretary may make reproductions of documents filed under this
16 Chapter, or under any predecessor act, by photographic, microfilm, optical disk media, or
17 other means of reproduction, and may destroy the originals of those documents
18 reproduced.

19 (b) The Secretary of State files a document by stamping or otherwise endorsing
20 'Filed', together with the Secretary of State's name and official title and the date and time
21 of filing, on both the original and the exact or conformed copy. After filing a document,
22 except as provided in G.S. 55A-5-03 and G.S. 55A-15-09, the Secretary of State shall
23 deliver the exact or conformed copy to the domestic or foreign corporation or its
24 representative.

25 (c) If the Secretary of State refuses to file a document, the Secretary of State shall
26 return it, by personal delivery or by first-class mail postage prepaid, to the domestic or
27 foreign corporation or its representative within five days after the document was
28 received, together with a brief, written statement of the date of and the reason for refusal.
29 The Secretary of State may correct apparent errors and omissions on a document
30 submitted for filing if authorized to make the corrections by the person submitting the
31 document for filing. The authorization to make the corrections shall be confirmed,
32 according to procedures adopted by rule, by the Secretary prior to making the correction.

33 (d) The Secretary of State's duty is to review and file documents that satisfy the
34 requirements of this Chapter. The Secretary of State's filing or refusing to file a
35 document does not:

36 (1) Except as provided in G.S. 55A-2-03(b), affect the validity or invalidity
37 of the document in whole or part;

38 (2) Determine the correctness or incorrectness of information contained in
39 the document;

40 (3) Create a presumption that the document is valid or invalid or that
41 information contained in the document is correct or incorrect."

42 Sec. 21. G.S. 55A-1-27 reads as rewritten:

43 **"§ 55A-1-27. Evidentiary effect of certificate of filing.**

1 A certificate attached to a copy of a document filed by the Secretary of State, bearing
2 the Secretary of State's signature (which may be in facsimile) and the seal of his office
3 and certifying that the copy is a true copy of the document, is conclusive evidence that
4 the original document is on file with the Secretary of State. A photographic, microfilm,
5 optical disk media, or other reproduced copy of a document filed pursuant to this Chapter
6 or any predecessor act, when certified by the Secretary, shall be considered an original
7 for all purposes and is admissible in evidence in like manner as an original."

8 Sec. 22. G.S. 55A-1-28(b)(4) is repealed.

9 Sec. 23. G.S. 55A-1-40 (20) reads as rewritten:

10 "(20) 'Principal office' means the office (in or out of this State) so designated
11 in the ~~annual report filed pursuant to G.S. 55A-16-22~~ articles of
12 incorporation, the Designation of Principal Office Address form, or in
13 any subsequent Corporation's Statement of Change of Principal Office
14 Address form filed with the Secretary of State where the principal
15 offices of a domestic or foreign corporation are located."

16 Sec. 24. G.S. 55A-1-41(d) reads as rewritten:

17 "(d) Written notice to a domestic or foreign corporation (authorized to conduct
18 affairs in this State) may be addressed to its registered agent at its registered office or to
19 the corporation or its secretary at its principal office shown in its ~~most recent annual report~~
20 ~~on file in the office of the Secretary of State or, in the case of a foreign corporation that has not~~
21 ~~yet delivered an annual report, in its application for a certificate of authority.~~ articles of
22 incorporation, the Designation of Principal Office Address form, or any Corporation's
23 Statement of Change of Principal Office Address form filed with the Secretary of State."

24 Sec. 25. G.S. 55A-2-02(a) reads as rewritten:

25 "(a) The articles of incorporation shall set forth:

- 26 (1) A corporate name for the corporation that satisfies the requirements of
27 G.S. 55A-4-01;
- 28 (2) If the corporation is a charitable or religious corporation, a statement to
29 that effect if it was incorporated on or after the effective date of this
30 Chapter;
- 31 (3) The street address, and the mailing address if different from the street
32 address, of the corporation's initial registered office, the county in which
33 the initial registered office is located, and the name of the corporation's
34 initial registered agent at that address;
- 35 (4) The name and address of each incorporator;
- 36 (5) Whether or not the corporation will have members; ~~and~~
- 37 (6) Provisions not inconsistent with law regarding the distribution of assets
38 ~~on dissolution.~~ dissolution; and
- 39 (7) The street address, and the mailing address, if different from the street
40 address, of the principal office, and the county in which the principal
41 office is located."

42 Sec. 26. G.S. 55A-4-01(b) reads as rewritten:

1 (b) Except as authorized by subsection (c) of this section, a corporate name shall
2 be distinguishable upon the records of the Secretary of State from:

- 3 (1) The corporate name of a domestic nonprofit corporation or a foreign
4 nonprofit corporation authorized to conduct affairs in this State;
5 (2) The corporate name of a business corporation incorporated or
6 authorized to transact business in this State;
7 (3) A corporate name reserved or registered under G.S. 55A-4-02, 55A-4-
8 03, 55-4-02, or 55-4-03; ~~or~~
9 (4) The fictitious name adopted by a foreign business or nonprofit
10 corporation authorized to transact business or conduct affairs in this
11 State because its real name is ~~unavailable~~; ~~unavailable~~; or
12 (5) The name used, reserved, or registered by a limited liability company
13 pursuant to Chapter 57C of the General Statutes or by a limited
14 partnership pursuant to Chapter 59 of the General Statutes."

15 Sec. 27. G.S. 55A-4-01(f) reads as rewritten:

16 (f) The name of a corporation dissolved under Article 14 of this Chapter shall not
17 be used by another corporation ~~until the expiration of two years after the effective date of~~
18 ~~the dissolution unless the dissolved corporation consents in writing to the use.~~ until:

- 19 (1) In the case of a voluntary dissolution, the expiration of 120 days after
20 the effective date of the dissolution, or
21 (2) In the case of an administrative dissolution, the expiration of the period
22 within which the corporation may be reinstated pursuant to G.S. 55A-
23 14-22,

24 unless the dissolved corporation changes its name to a name that is distinguishable upon
25 the records of the Secretary of State from the names of other nonprofit corporations,
26 business corporations, limited partnerships, or limited liability companies organized or
27 transacting business in this State."

28 Sec. 28. G.S. 55A-5-02(c) is repealed.

29 Sec. 29. Article 5 of Chapter 55A of the General Statutes is amended by
30 adding a new section to read:

31 **"§ 55A-5-02.1. Principal office address.**

32 (a) Any corporation that does not designate the street address and the mailing
33 address, if different from the street address, of the corporation's principal office and the
34 county of location in an annual report or its articles of incorporation shall file a
35 Designation of Principal Office Address form with the Secretary of State that contains
36 that information.

37 (b) A corporation may change its principal office by delivering to the Secretary of
38 State for filing a Corporation's Statement of Change of Principal Office form that sets
39 forth:

- 40 (1) The street address, and the mailing address if different from the street
41 address, of the corporation's current principal office and the county in
42 which it is located; and

1 (2) The street address, and the mailing address if different from the street
2 address, of the new principal office and the county in which it is
3 located."

4 Sec. 30. G.S. 55A-5-03(b) reads as rewritten:

5 "(b) After filing the statement the Secretary of State shall mail one copy to the
6 registered office (if not discontinued) and the other copy to the corporation at its principal
7 ~~office as shown in its most recent annual report.~~ office."

8 Sec. 31. G.S. 55A-5-04(b) reads as rewritten:

9 "(b) When a corporation fails to appoint or maintain a registered agent in this State,
10 or when its registered agent cannot with due diligence be found at the registered office,
11 the Secretary of State shall be an agent of the corporation upon whom any process,
12 notice, or demand may be served. Service on the Secretary of State of any process,
13 notice, or demand shall be made by delivering to and leaving with the Secretary of State
14 or with any clerk having charge of the corporation department of his office, duplicate
15 copies of such process, notice, or demand. In the event any process, notice, or demand is
16 served on the Secretary of State, he shall immediately mail one of the copies thereof, by
17 registered or certified mail, return receipt requested, to the corporation at its principal
18 ~~office shown in its most recent annual report~~ or in any subsequent communication received
19 from the corporation stating the current mailing address of its principal office or, if there
20 is no mailing address for the principal office on file, to the corporation at its registered
21 office. Service on a corporation under this subsection shall be effective for all purposes
22 from and after the date of such service on the Secretary of State."

23 Sec. 32. G.S. 55A-14-20 reads as rewritten:

24 **"§ 55A-14-20. Grounds for administrative dissolution.**

25 The Secretary of State may commence a proceeding under G.S. 55A-14-21 to dissolve
26 administratively a corporation if:

- 27 (1) The corporation does not pay within 60 days after they are due any
28 penalties, fees, or other payments due under this Chapter;
- 29 (2) The corporation does not deliver its annual report to the Secretary of
30 State within 60 days after it is due;
- 31 (3) The corporation is without a registered agent or registered office in this
32 State for 60 days or more;
- 33 (4) The corporation does not notify the Secretary of State within 60 days
34 that its registered agent or registered office has been changed, that its
35 registered agent has resigned, or that its registered office has been
36 discontinued;
- 37 (5) The corporation's period of duration stated in its articles of
38 incorporation expires; ~~or~~
- 39 (6) The corporation knowingly fails or refuses to answer truthfully and fully
40 within the time prescribed in this Chapter interrogatories propounded by
41 the Secretary of State in accordance with the provisions of this ~~Chapter.~~
42 Chapter; or

1 (7) The corporation does not designate the address of its principal office
2 with the Secretary of State or does not notify the Secretary of State
3 within 60 days that the principal office has changed."

4 Sec. 33. G.S. 55A-14-20(2) is repealed.

5 Sec. 34. G.S. 55A-15-09(b) reads as rewritten:

6 "(b) After filing the statement, the Secretary of State shall mail one copy to the
7 registered office (if not discontinued) and the other copy to the foreign corporation at its
8 principal ~~office shown in its most recent annual report-~~office."

9 Sec. 35. G.S. 55A-15-10(b) reads as rewritten:

10 "(b) When a foreign corporation authorized to conduct affairs in this State fails to
11 appoint or maintain a registered agent in this State, or when its registered agent cannot
12 with due diligence be found at the registered office, or when its certificate of authority
13 shall have been revoked under G.S. 55A-15-31, the Secretary of State shall be an agent of
14 such corporation upon whom any process, notice, or demand may be served. Service on
15 the Secretary of State of any process, notice, or demand shall be made by delivering to
16 and leaving with the Secretary of State or with any clerk having charge of the corporation
17 department of the Secretary of State's office, duplicate copies of such process, notice, or
18 demand. In the event any process, notice, or demand is served on the Secretary of State,
19 he shall immediately mail one of the copies thereof, by registered or certified mail, return
20 receipt requested, to the corporation at its principal office ~~shown in its most recent annual~~
21 ~~report-~~or in any subsequent communication received from the corporation stating the
22 current mailing address of its principal office or, if there is no mailing address for the
23 principal office on file, to the corporation at its registered office. Service on a foreign
24 corporation under this subsection shall be effective for all purposes from and after the
25 date of such service on the Secretary of State."

26 Sec. 36. G.S. 55A-15-30(a)(1) is repealed.

27 Sec. 37. G.S. 55A-16-01(e)(7) is repealed.

28 PART III. LIMITED LIABILITY COMPANIES.

29 Sec. 38. G.S. 57C-2-23 reads as rewritten:

30 "**§ 57C-2-23. Annual report for Secretary of State-Revenue.**"

31 (a) Each domestic limited liability company and each foreign limited liability
32 company authorized to transact business in this State, shall deliver to the Secretary of
33 ~~State-Revenue~~ for filing an annual ~~report-report~~, in a form prescribed by the Secretary of
34 Revenue, that sets forth:

35 (1) The name of the limited liability or foreign limited liability company
36 and the state or country under whose law it is ~~organized;-organized,~~ and
37 a telephone number by which the person in charge of the management
38 of the limited liability company may be contacted;

39 (2) The street address, and the mailing address if different from the street
40 address, of the registered office, the county in which the registered
41 office is located, and the name of its registered agent at that office in
42 this State, and a statement of any change of the registered office or
43 registered agent, or both;

- 1 (3) The address of its principal office;
2 (4) The names and business addresses of its managers; and
3 (5) A brief description of the nature of its business.

4 If the information contained in the most recently filed annual report has not changed,
5 a certification to that effect may be made instead of setting forth the information required
6 by subdivisions (2) through (5) of this subsection.

7 (b) Information in the annual report must be current as of the date the annual
8 report is executed on behalf of the limited liability company or the foreign limited
9 liability company.

10 (c) The annual report shall be delivered to the Secretary of State ~~each year~~
11 Revenue within 60 days immediately following the last day of the month in which the
12 domestic limited liability company was organized or the foreign limited liability
13 company received a certificate of authority in this State. by the due date, including any
14 approved extensions, for filing the limited liability company's partnership tax return.
15 Forms required for the filing of the annual report shall be mailed by the Secretary of State
16 to the domestic or foreign limited liability company at its registered office for the first
17 annual report, and then to its principal office for subsequent annual reports. Forms
18 required for the filing of subsequent annual reports shall be made available by the
19 Secretary of Revenue.

20 (d) If an annual report does not contain the information required by this section,
21 the Secretary of State ~~Revenue~~ shall promptly notify the reporting domestic or foreign
22 limited liability company in writing and return the report to it for correction. If the report
23 is corrected to contain the information required by this section and delivered to the
24 Secretary of State ~~Revenue~~ within 30 days after the effective date of notice, it is deemed
25 to be timely filed. The Secretary of Revenue shall notify the Secretary of State promptly
26 of any limited liability company that fails to file a timely report.

27 (e) Amendments to any previously filed annual report may be filed at any time for
28 the purpose of correcting, updating, or augmenting the information contained in the
29 annual report."

30 Sec. 39. G.S. 57C-1-22 reads as rewritten:

31 **"§ 57C-1-22. Filing, service, and copying fees.**

32 (a) The Secretary of State shall collect the following fees when the documents
33 described in this subsection are delivered to the Secretary of State for filing:

<u>Document</u>	<u>Fee</u>
(1) Articles of organization	\$100.00
(2) Application for reserved name	10.00
(3) Notice of transfer of reserved name	10.00
(4) Application for registered name	10.00
(5) Application for renewal of registered name	10.00
(6) Limited liability company's statement of change of registered agent or registered office or both	5.00
(7) Agent's statement of change of registered	

1	office for each affected limited	
2	liability company	5.00
3	(8) Agent's statement of resignation	No fee
4	(9) Designation of registered agent or	
5	registered office or both	5.00
6	(10) Amendment of articles of organization	50.00
7	(11) Restated articles of organization	
8	without amendment of articles	10.00
9	(12) Restated articles of organization	
10	with amendment of articles	50.00
11	(13) Articles of merger	50.00
12	(14) Articles of dissolution	30.00
13	(15) Articles of revocation of dissolution	10.00
14	(16) Certificate of administrative dissolution	No fee
15	(17) Certificate of reinstatement	No fee
16	(18) Certificate of judicial dissolution	No fee
17	(19) Application for certificate of authority	200.00
18	(20) Application for amended certificate	
19	of authority	50.00
20	(21) Application for certificate of withdrawal	10.00
21	(22) Certificate of revocation of authority	
22	to transact business	No fee
23	(23) Articles of correction	10.00
24	(24) Application for certificate of existence	
25	or authorization	5.00
26	(25) Annual report	200.00
27	(26) Any other document required or permitted	
28	to be filed by this Chapter	10.00.

(b) The Secretary of State shall collect a fee of ten dollars (\$10.00) each time process is served on the Secretary of State under this Chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if ~~he~~ the party prevails in the proceeding.

(c) The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of any filed document relating to a domestic or foreign limited liability company:

- (1) One dollar (\$1.00) a page for copying or comparing a copy to the original; and
- (2) Five dollars (\$5.00) for the certificate."

Sec. 40. Article 1 of Chapter 57C of the General Statutes is amended by adding a new section to read:

"§ 57C-1-22.1. Expedited filings.

The Secretary of State shall guarantee the expedited filing of a document upon receipt of the document in proper form and the payment of the required filing fee. The Secretary

1 of State may collect the following additional fees for the expedited filing of a document
2 received in good form:

- 3 (1) Two hundred dollars (\$200.00) for the filing by the end of the same
4 business day of a document received by 12:00 noon Eastern Standard
5 Time; and
6 (2) One hundred dollars (\$100.00) for the filing of a document within 24
7 hours after receipt, excluding weekends and holidays.

8 The Secretary of State shall not collect the fees allowed in this section unless the person
9 submitting the document for filing requests an expedited filing and is informed by the
10 Secretary of State of the fees prior to the filing of the document."

11 Sec. 41. G.S. 57C-1-25 reads as rewritten:

12 **"§ 57C-1-25. Filing duty of Secretary of State.**

13 (a) If a document delivered to the Office of the Secretary of State for filing
14 satisfies the requirements of this Chapter, the Secretary of State shall file it. Documents
15 filed with the Secretary of State pursuant to this Chapter may be maintained by the
16 Secretary either in their original form or in photographic, microfilm, optical disk media,
17 or other reproduced form. The Secretary may make reproductions of documents filed
18 under this Chapter, or under any predecessor act, by photographic, microfilm, optical disk
19 media, or other means of reproduction, and may destroy the originals of those documents
20 reproduced.

21 (b) The Secretary of State files a document by stamping or otherwise endorsing
22 'Filed', together with ~~his~~ the Secretary of State's name and official title and the date and
23 time of filing, on both the original and the document copy. After filing a document, the
24 Secretary of State shall deliver the document copy to the domestic or foreign limited
25 liability company or its representative.

26 (c) If the Secretary of State refuses to file a document, the Secretary of State shall
27 return it to the domestic or foreign limited liability company or its representative within
28 five days after the document was received, together with a brief, written explanation of
29 the reason for ~~his~~ refusal. The Secretary of State may correct apparent errors and
30 omissions on a document submitted for filing if authorized to make the corrections by the
31 person submitting the document for filing. The authorization to make the corrections
32 shall be confirmed, according to procedures adopted by rule, by the Secretary prior to
33 making the correction.

34 (d) The Secretary of State's duty is to review and file documents that satisfy the
35 requirements of this Chapter. The Secretary of State's filing or refusing to file a
36 document does not:

- 37 (1) Affect the validity or invalidity of the document in whole or part;
38 (2) Relate to the correctness or incorrectness of information contained in
39 the document; or
40 (3) Create a presumption that the document is valid or invalid or that
41 information contained in the document is correct or incorrect."

42 Sec. 42. G.S. 57C-1-27 reads as rewritten:

43 **"§ 57C-1-27. Evidentiary effect of copy of filed document.**

1 A certificate attached to a copy of a document filed by the Secretary of State, bearing
2 the Secretary of State's signature (which may be in facsimile) and the seal of office and
3 certifying that ~~said the copy~~ is a true copy of ~~said the document~~, is conclusive evidence
4 that the original document is on file with the Secretary of State. A photographic,
5 microfilm, optical disk media, or other reproduced copy of a document filed pursuant to
6 this Chapter or any predecessor act, when certified by the Secretary, shall be considered
7 an original for all purposes and is admissible in evidence in like manner as an original."

8 Sec. 43. G.S. 57C-2-30(f) reads as rewritten:

9 "(f) The name of a limited liability company dissolved under G.S. 57C-6-03 may
10 not be used by another limited liability company until the expiration of two years after
11 the effective date of the ~~articles of dissolution~~ unless the dissolved limited liability
12 company ~~consents in writing to the use~~ changes its name to a name distinguishable upon
13 the records of the Secretary of State from the names of other limited liability companies,
14 business corporations, nonprofit corporations, or limited partnerships organized or
15 transacting business in this State."

16 Sec. 44. G.S. 57C-3-25(a) reads as rewritten:

17 "(a) Any person dealing with a limited liability company or a foreign limited
18 liability company may rely conclusively upon its most recent annual report and any
19 amendments thereto filed with the Secretary of ~~State Revenue~~ pursuant to G.S. 57C-2-23
20 as to the identity of its managers, except to the extent the person has actual knowledge
21 that a person identified therein as a manager is not a manager."

22 Sec. 45. G.S. 57C-6-03(a)(2) reads as rewritten:

23 "(2) The limited liability company does not deliver its annual report to the
24 Secretary of ~~State Revenue~~ on or before the date it is due;"

25 Sec. 46. G.S. 57C-7-14(a)(2) reads as rewritten:

26 "(2) The foreign limited liability company has not delivered its annual report
27 to the Secretary of ~~State Revenue~~ on or before the date it is due;"

28 PART IV. LIMITED PARTNERSHIPS.

29 Sec. 47. G.S. 59-103(d) reads as rewritten:

30 "(d) The limited partnership name ~~shall be sufficiently unique to permit separate~~
31 ~~indexing in the limited partnership records in the Office of the Secretary of State. Filing~~
32 ~~of name does not confer any right to the use of the name in commerce. must be~~
33 distinguishable upon the records of the Secretary of State from:

34 (1) The name of a corporation, nonprofit corporation, limited partnership,
35 or limited liability company organized in this State, or a foreign
36 corporation or nonprofit corporation, foreign limited partnership, or
37 foreign limited liability company authorized to transact business in this
38 State;

39 (2) A name reserved under G.S. 55-4-02, 55-4-03, 55A-4-02, 55A-4-03,
40 57C-2-31, 57C-2-32, 59-104, or 59-904; and

41 (3) The fictitious name adopted by a foreign corporation or nonprofit
42 corporation, foreign limited partnership, or foreign limited liability

1 company authorized to transact business in this State because its real
2 name is unavailable."

3 Sec. 48. G.S. 59-206 reads as rewritten:

4 **"§ 59-206. Filing requirements.**

5 (a) Whenever the provisions of this Article require any document relating to a
6 limited partnership to be executed and filed in accordance with this Article, unless
7 otherwise specifically stated in this Article:

8 (1) There shall be an original executed document and also one conformed
9 copy.

10 (2) The original document so signed, together with the conformed copy,
11 shall be delivered to the Secretary of State. ~~Unless he~~the Secretary
12 ~~finds that it does not conform to law, the Secretary of State shall, when~~
13 ~~the proper fees have been tendered, endorse upon the original the word~~
14 ~~'filed' and the hour, day, month and year of the filing thereof and shall~~
15 ~~file the same in his office. The Secretary of State shall thereupon~~
16 ~~immediately compare the copy with the original and if he~~the Secretary
17 ~~finds that they are identical he shall make upon the conformed copy the~~
18 ~~same endorsement which appears on the original and shall attach to the~~
19 ~~copy a certificate stating that attached thereto is a true copy of the~~
20 ~~document, designated by an appropriate title, filed in his office and~~
21 ~~showing the date of such the filing. He~~The Secretary shall thereupon
22 ~~return the copy so certified to the limited partnership or its~~
23 ~~representatives. Any documents filed with the Secretary of State~~
24 ~~pursuant to this Chapter may be maintained by the Secretary either in~~
25 ~~their original form or in photographic, microfilm, optical disk media, or~~
26 ~~other reproduced form. The Secretary may make reproductions of~~
27 ~~documents filed under this Chapter, or under any predecessor act, by~~
28 ~~photographic, microfilm, optical disk media, or other means of~~
29 ~~reproduction, and may destroy the originals of the documents~~
30 ~~reproduced. The Secretary of State may correct apparent errors and~~
31 ~~omissions on a document submitted for filing if authorized to make the~~
32 ~~corrections by the person submitting the document for filing. The~~
33 ~~authorization to make the corrections shall be confirmed, according to~~
34 ~~procedures adopted by rule, by the Secretary prior to making the~~
35 ~~correction.~~

36 (3) Repealed by Session Laws 1991, c. 153, s. 2.

37 (3a) Whenever the name of any domestic or foreign limited partnership
38 holding title to real property in this State is changed upon amendment to
39 the certificate of limited partnership, a certificate reciting ~~such the~~
40 change or transfer shall be recorded in the office of the register of deeds
41 of the county where the property lies, or if the property is located in
42 more than one county, then in each county where any portion of the
43 property lies.

1 (4) The Secretary of State shall adopt uniform certificates to be furnished
2 for registration in accordance with this section. In the case of a foreign
3 limited partnership, a similar certificate by any competent authority of
4 the jurisdiction under which the limited partnership is organized may be
5 registered in accordance with this section.

6 (5) The certificate required by this section shall be recorded by the register
7 of deeds in the same manner as deeds, and for the same fees, but no
8 formalities as to acknowledgement, probate, or approval by any other
9 officer shall be required. The former name of the limited partnership
10 holding title to the real property before the amendment shall appear in
11 the 'Grantor' index, and the amended name of the limited partnership
12 holding title to the real property by virtue of the amendment shall
13 appear in the 'Grantee' index.

14 (b) Repealed by Session Laws 1991, c. 153, s. 2.

15 (b1) Except as provided in subsection (b2), a document accepted for filing is
16 effective:

17 (1) At the time of filing on the date it is filed, as evidenced by the Secretary
18 of State's date and time endorsement on the original document; or

19 (2) At the time specified in the document as its effective time on the date it
20 is filed.

21 (b2) A document may specify a delayed effective time and date, and if it does so the
22 document becomes effective at the time and date specified. If a delayed effective date
23 but not time is specified, the document is effective at 11:59:59 p.m. on that date. A
24 delayed effective date for a document may not be later than the ninetieth day after the
25 date it is filed.

26 (b3) The fact that a document has become effective under this section does not
27 determine its validity or invalidity or the correctness or incorrectness of the information
28 contained in the document.

29 (c) It shall be the duty of the Secretary of State, whenever so requested and upon
30 tender of the proper fees, to certify as aforesaid any true copy of any ~~such~~ document on
31 file in ~~his~~ the office, or if ~~such be the request,~~ requested, to make or cause to be made
32 typewritten or photostatic copies of ~~such~~ the documents and to certify the same as
33 aforesaid. A photographic, microfilm, optical disk media, or other reproduced copy of a
34 document filed pursuant to this Chapter or any predecessor act, when certified by the
35 Secretary, shall be considered an original for all purposes and is admissible in evidence in
36 like manner as an original."

37 Sec. 49. G.S. 59-1106 reads as rewritten:

38 "**§ 59-1106. Fees.**

39 The Secretary of State shall collect the following fees and remit them to the State
40 Treasurer for the use of the State:

41 (1) For filing a certificate of limited
42 partnership (G.S. 59-201) \$50.00

43 (2) For filing a certificate of amendment

- 1 (G.S. 59-202; 59-905) 25.00
2 (3) For filing a certificate of cancellation
3 (G.S. 59-203; 59-906) 25.00
4 (4) For filing an application for reservation
5 of name (G.S. 59-104(a)) 10.00
6 (5) For filing a transfer of name
7 (G.S. 59-104(d)) 10.00
8 (6) For filing an application for registration
9 as foreign limited partnership
10 (G.S. 59-502) 50.00
11 (7) For preparing and furnishing a copy of
12 any document, instrument or paper filed or
13 recorded relating to a limited partnership
14 (G.S. 59-206(c))
15 For each page 1.00
16 For affixing his certificate and official seal
17 thereto 5.00
18 (8) For comparing a copy furnished to him of any
19 document, instrument or paper filed or
20 recorded relating to a limited partnership
21 For each page 1.00
22 (9) For filing any other document not herein
23 specifically provided for ~~10.00~~ 10.00
24 (10) For the expedited filing by the
25 end of the same business day of a
26 document received in good order by 12:00 noon
27 Eastern Standard Time 200.00
28 additional fee
29 (11) For the expedited filing of a document
30 received in good order within 24
31 hours after receipt, excluding
32 weekends and holidays 100.00
33 additional fee.

34 The Secretary of State shall not collect the fees allowed in subdivisions (10) and
35 (11) of this section unless the person submitting the document for filing requests an
36 expedited filing and is informed by the Secretary of State of the fees prior to the filing of
37 the document. Upon receipt of a document in proper form and payment of the required
38 filing fee, the Secretary of State shall guarantee the expedited filing of the document."

39 PART V. CONFORMING CHANGES, APPROPRIATIONS, AND EFFECTIVE
40 DATES.

41 Sec. 50. G.S. 105-228.90(a) reads as rewritten:

1 Sec. 53. There is appropriated from the General Fund to the Department of the
2 Secretary of State a sum for the 1995-96 fiscal year and a sum for the 1996-97 fiscal year
3 for equipment and other one-time costs of implementing this act.

4 Sec. 54. There is appropriated from the General Fund to the Department of
5 Revenue a sum for the 1995-96 fiscal year and a sum for the 1996-97 fiscal year for
6 personnel, equipment, and other costs of implementing this act.

7 Sec. 55. Sections 1-3, 7, 8, 11, 14, 15, 38, 39, 44-46, and 50-52 of this act
8 become effective July 1, 1996, and apply to annual reports due for years beginning with
9 1996. Section 13 of this act becomes effective July 1, 1996, and applies to applications
10 for reinstatement on or after that date. Section 32 of this act becomes effective July 1,
11 1996, and applies to proceedings commenced on or after that date. The remainder of this
12 act becomes effective July 1, 1995. Sections 4, 19, 40, and 49 of this act apply to
13 expedited filings submitted on or after July 1, 1995. Section 12 of this act applies to
14 applications for reinstatement on or after July 1, 1995. Section 25 of this act applies to
15 articles of incorporation filed on or after July 1, 1995.