

2017 Regular Session

HOUSE BILL NO. 211

BY REPRESENTATIVE FOIL

1 AN ACT

2 To amend and reenact R.S. 12:1-401(C)(introductory paragraph) and (1) and (F), 1-
3 403(B)(2), 204(B)(introductory paragraph) and (1), 236(C)(1)(a), 308(A)(1),
4 1306(A)(3)(introductory paragraph) and (a) and (F), 1308(A)(2)(b), 1350(A)(1)(c)
5 and (B)(2) and R.S. 51:215(A)(1), to enact R.S. 12:1308.3(C)(8)(c), and to repeal
6 R.S. 12:315 and 1356, relative to regulations by the secretary of state with respect
7 to filings of business entities; to provide relative to corporations, partnerships, and
8 certain limited liability companies; to provide relative to agents for service of
9 process; to repeal certain penalties applicable to foreign limited liability companies;
10 to provide technical changes; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 12:1-401(C)(introductory paragraph) and (1) and (F), 1-403(B)(2),
13 204(B)(introductory paragraph) and (1), 236(C)(1)(a), 308(A)(1), 1306(A)(3)(introductory
14 paragraph) and (a) and (F), 1308(A)(2)(b), and 1350(A)(1)(c) and (B)(2) are hereby
15 amended and reenacted and R.S. 12:1308.3(C)(8)(c) is hereby enacted to read as follows:

16 §1-401. Corporate name

17 * * *

18 C. A corporation may apply to the secretary of state for authorization to use
19 a name in its filings with the secretary of state that is not distinguishable from one
20 or more of the names described in Subsection B of this Section. The secretary of
21 state shall authorize the use of the name applied for if either of the following occur:

22 (1) The other registrant consents to the use in writing and submits ~~an~~
23 ~~undertaking in a form satisfactory to the secretary of state~~ the document required by
24 law to change its name to a ~~name~~ one that is distinguishable from the name of the

1 applying corporation, effective no later than the time that the applying corporation
2 will begin to use the registrant's former name.

3 * * *

4 F. If the secretary of state receives for filing articles of incorporation that
5 include in the corporate name the word "bank", "banker", "banking", "savings", "safe
6 deposit", "trust", "trustee", "building and loan", "homestead", "credit union", or any
7 other word of similar import, the secretary of state shall not file the articles of
8 incorporation until the secretary of state receives satisfactory evidence that written
9 notice of the proposed use of that name was delivered to the office of financial
10 institutions at least ~~ten~~ fourteen days earlier.

11 * * *

12 §1-403. Registered name

13 * * *

14 B. A foreign corporation registers its corporate name, or its corporate name
15 with any addition authorized by R.S. 12:303(A)(3), by delivering to the secretary of
16 state for filing an application which does both of the following:

17 * * *

18 (2) Is accompanied by a certificate of existence, or a document of similar
19 import, from the state or country of incorporation which is dated within ninety days
20 of receipt by the secretary of state.

21 * * *

22 §204. Corporate name

23 * * *

24 B. As used in this Subsection, the term "corporation" includes nonprofit
25 corporations, business corporations, ~~and~~ foreign corporations, and partnerships. The
26 corporate name shall be distinguishable from a name reserved pursuant to ~~R.S.~~
27 ~~12:23(G)~~ R.S. 12:1-402(A) and shall be distinguishable from the name of any other
28 corporation, limited liability company, partnership, or trade name registered with the
29 secretary of state unless any of the following Paragraphs apply:

1 (1) ~~The other corporation is about to change its name; or to cease doing~~
2 ~~business; or is being liquidated; or, if a foreign corporation, is about to withdraw~~
3 ~~from doing business in this state; and the written consent of the other corporation to~~
4 ~~the adoption of its name, or a nondistinguishable name, has been given and is filed~~
5 ~~with the articles. The other registrant consents to the use of the name in writing and~~
6 ~~submits the document required by law to change its name to one that is~~
7 ~~distinguishable from the name of the applying corporation, effective no later than the~~
8 ~~time that the applying corporation will begin to use the registrant's former name.~~

9 * * *

10 §236. Registered office and agent

11 * * *

12 C.(1)(a) Every corporation shall continuously maintain in this state at least
13 one registered agent, which agent may be ~~either~~ any of the following:

- 14 (i) An individual who is a resident of this state;
- 15 (ii) A partnership which is authorized to practice law in this state; ~~or.~~
- 16 (iii) A business corporation, ~~or a~~ limited liability company, foreign

17 ~~corporation, or foreign limited liability company~~ authorized to transact business in
18 this state, which is authorized by its articles or certificate of incorporation or
19 organization to act as the agent of a corporation for service of process, and which has
20 on file with the secretary of state a certificate or amended certificate setting forth the
21 names of at least two individuals at its address in this state, each of whom is
22 authorized to receive any process served on it as such agent.

23 * * *

24 §308. Registered agent, registered office and principal business establishment,
25 keeping of records by foreign corporation

26 A. Each foreign corporation authorized to transact business in this state shall
27 have and continuously maintain in this state:

- 28 (1) At least one registered agent, which agent may be ~~either~~ any of the
29 following:

1 (a) ~~an~~ An individual resident in this state whose business office is identical
2 with the corporation's registered office;

3 (b) ~~an~~ An individual attorney or a partnership which is authorized to practice
4 law in this state;~~or.~~

5 (c) ~~a~~ A domestic corporation, ~~or a domestic limited liability company,~~ foreign
6 corporation, or foreign limited liability company authorized to transact business in
7 this state, which has a business office identical with such registered office, which is
8 authorized by its articles or certificate of incorporation or organization to act as the
9 agent of a corporation for service of process, and which has on file with the secretary
10 of state both a certificate or amended certificate setting forth the names of at least
11 two individuals in such office, each of whom is authorized to receive any process
12 served on it as such agent and a notarized affidavit of acknowledgement and
13 acceptance signed by each registered agent. The failure to attach a notarized
14 affidavit of acknowledgement and acceptance as required by this Section shall not
15 be a defense to proper service of process on the corporation.

16 * * *

17 §1306. Name

18 A. The name of each limited liability company as set forth in its articles of
19 organization:

20 * * *

21 (3) Shall be distinguishable from the name of any corporation, partnership,
22 or other limited liability company organized under the laws of this state, any foreign
23 corporation, partnership, or limited liability company registered or qualified to do
24 business in this state, any name which is reserved under R.S. 12:1307 or ~~R.S.~~
25 ~~12:23(G)~~ R.S. 12:1-402(A), or any trade name registered with the secretary of state,
26 unless any of the following Paragraphs apply:

27 (a) ~~The corporation or other limited liability company is about to change its~~
28 ~~name, to cease doing business, or is being liquidated, or, if a foreign corporation or~~
29 ~~limited liability company, is about to withdraw from doing business in this state, and~~
30 ~~the written consent of the corporation or other limited liability company to the~~

1 ~~adoption of its name or a nondistinguishable name has been given and is filed with~~
2 ~~the articles of organization~~ The other registrant consents to the use of the name in
3 writing and submits the document required by law to change its name to one that is
4 distinguishable from the name of the applying corporation or limited liability
5 company, effective no later than the time that the applying corporation or limited
6 liability company will begin to use the registrant's former name.

7 * * *

8 F. If a limited liability company seeking issuance of a certificate of
9 organization in Louisiana includes in its name the words "bank", "banker",
10 "banking", "savings", "safe deposit", "trust", "trustee", "building and loan",
11 "homestead", or "credit union", the secretary of state shall require written approval
12 from the commissioner of the office of financial institutions dated not less than ~~ten~~
13 fourteen days prior to the issuance of the certificate of organization.

14 * * *

15 §1308. Registered office and registered agent

16 A. Each limited liability company shall continuously maintain:

17 * * *

18 (2) At least one registered agent who shall be one of the following:

19 * * *

20 (b) A partnership or professional law corporation, which is authorized to
21 practice law in this state, or a domestic corporation, domestic limited liability
22 company, ~~or foreign corporation,~~ or foreign limited liability company authorized to
23 transact business in this state, which is authorized by its articles or certificate of
24 incorporation or organization to act as the agent of a limited liability company for
25 service of process and which has on file with the secretary of state a certificate
26 setting forth the name of at least two individuals at its address in this state, each of
27 whom is authorized to receive any process served upon it as such agent. Legal
28 process and other notices or demands may be served on the limited liability company
29 by service upon this agent and, if the agent is a partnership, upon any partner.

30 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 §1308.3. Conversion of state of organization

2 * * *

3 C. The domestic or foreign limited liability company seeking conversion
4 shall file with the secretary of state a written request for conversion of the state of
5 organization. Such request shall contain all of the following:

6 * * *

7 (8) If the limited liability company is converting its state of organization
8 from another state to this state:

9 * * *

10 (c) A copy of its articles of organization which are in compliance with the
11 requirements of R.S. 12:1305, when the written request for conversion is filed with
12 the secretary of state.

13 * * *

14 §1350. Registered agent; registered office and principal business establishment;
15 keeping of records by foreign limited liability company

16 A. Each foreign limited liability company authorized to transact business in
17 this state shall have and continuously maintain in this state:

18 (1) At least one registered agent, which agent shall be one of the following:

19 * * *

20 (c) A domestic corporation, domestic limited liability company, ~~or a~~ foreign
21 corporation, or foreign limited liability company authorized to transact business in
22 this state, which has a business office identical to such registered office, and which
23 is authorized by its articles or certificate of incorporation or organization to act as an
24 agent of a limited liability company for service of process, and which has on file with
25 the secretary of state a certificate setting forth the names of at least two individuals
26 at its address in this state, each of whom is authorized to receive any process served
27 on it as such agent.

28 * * *

29 B.

30 * * *

1 (2) If its registered agent is an individual or a corporation, the address of its
2 ~~principal~~ registered office and the address of the business office of its registered
3 agent, as changed, shall be identical.

4 * * *

5 Section 2. R.S. 51:215(A)(1) is hereby amended and reenacted to read as follows:

6 §215. Certificate of registration

7 A.(1) Upon compliance by the applicant with the requirements of this
8 Subpart, if the secretary of state finds that the trade name is distinguishable from or
9 not the same as a trade name, limited liability company name, partnership name, or
10 corporate name already in use in this state, or that the trademark or service mark is
11 distinguishable from or not the same as a trademark or service mark already in use
12 in this state which is registered in the same class, the secretary of state shall cause
13 a certificate of registration to be issued and delivered to the applicant.

14 * * *

15 Section 3. R.S. 12:315 and 1356 are hereby repealed in their entirety.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____