

2023 Regular Session

HOUSE BILL NO. 395

BY REPRESENTATIVE HILFERTY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

SECRETARY OF STATE: Provides relative to filings with the secretary of state's office

1 AN ACT

2 To amend and reenact R.S. 9:3403(A)(1) and R.S. 12:307(B), 307.1, 310,
3 311(A)(introductory paragraph), 1348(B), and 1349(C) and to enact R.S. 12:1-
4 120(H)(16) and 1306(G), relative to filings with the secretary of state's office; to
5 provide for the requirements of a partnership contract; to provide for form
6 requirements for certain documents; to permit certified copies for certain amended
7 certificates of authority; to require proof of notice for certain company names; and
8 to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 9:3403(A)(1) is hereby amended and reenacted to read as follows:

11 §3403. Contract of partnership; required content; use of names

12 A.(1) A contract of partnership filed for registry with the secretary of state
13 shall be written in the English language and contain the name and taxpayer
14 identification number of the partnership, the municipal address of its principal place
15 of business in this state, and the name and the municipal address of each partner,
16 including partners in commendam, if any.

17 * * *

1 Section 2. R.S. 12:307(B), 307.1, 310, 311(A)(introductory paragraph), 1348(B), and
2 1349(C) are hereby amended and reenacted and R.S. 12:1-120(H)(16) and 1306(G) are
3 hereby enacted to read as follows:

4 §1-120. Requirements for documents; extrinsic facts

5 * * *

6 H. Except as provided in R.S. 12:1701, the following documents shall be
7 acknowledged by one of the persons who signs the document or instead shall be
8 executed by authentic act:

9 * * *

10 (16) Articles of charter surrender

11 * * *

12 §307. Amended certificate of authority

13 * * *

14 B. If a foreign corporation changes its corporate name, it shall include with
15 its application for an amended certificate of authority a certificate evidencing such
16 change issued by the authorized official of the jurisdiction of incorporation of the
17 corporation, or a certified copy of the amendment in the case that the authorized
18 official of the jurisdiction of incorporation does not provide a certificate of such.

19 §307.1. Certificate of correction by a foreign corporation

20 Whenever the original application for a certificate of authority or an
21 application for an amended certificate of authority filed with the secretary of state
22 under any provision of this Chapter is an inaccurate record of the corporate action
23 therein referred to, or is defectively or erroneously executed or acknowledged, such
24 instrument may be corrected by filing with the secretary of state a certificate of
25 correction. The secretary of state may prescribe and furnish forms for filing the
26 certificate of correction. The certificate of correction shall specify the inaccuracy or
27 defect to be corrected and shall set forth that portion of the instrument in corrected
28 form. A certificate of correction shall be executed in the name of the corporation by

1 any officer authorized by resolution or consent of the board of directors and shall be
2 acknowledged by the person who signed it or may be executed by authentic act.

3 * * *

4 §310. Change of corporate name

5 If a foreign corporation authorized to transact business in this state changes
6 its corporate name, it shall procure an amended certificate of authority by making
7 application therefor to the secretary of state and submitting a duplicate or original
8 certificate of name change, ~~not a certified copy of the name change amendment,~~
9 from an authorized official of the jurisdiction of its incorporation or a certified copy
10 of the document in the case that the authorized official of the jurisdiction of
11 incorporation does not provide such certificate.

12 §311. Merger, consolidation, or dissolution

13 A. Whenever a foreign corporation authorized to transact business in this
14 state shall hereafter be merged into another foreign corporation, or shall hereafter be
15 a party to a statutory consolidation, or shall be dissolved, it shall, within thirty days,
16 file with the secretary of state a certificate from the secretary of state or an
17 authorized official of the jurisdiction of its incorporation or a certified copy of the
18 document in the case that the authorized official of the jurisdiction of incorporation
19 does not provide such certificate, ~~(not a certified copy of the agreement or~~
20 ~~dissolution)~~ evidencing the merger, consolidation, or dissolution; but the filing
21 thereof shall not of itself:

22 * * *

23 §1306. Name

24 * * *

25 G. If a limited liability company seeking issuance of a certificate of
26 organization in this state includes in its name the words "architect", "architectural"
27 or "architecture", the secretary of state shall not file the articles of organization until
28 the secretary of state receives either of the following:

1 (1) Satisfactory evidence that written notice of the proposed use of that name
2 was delivered to the Louisiana State Board of Architectural Examiners at least ten
3 days earlier.

4 (2) A written waiver of the ten-day notice requirement, signed by the
5 executive director or any member of the Louisiana State Board of Architectural
6 Examiners.

7 * * *

8 §1348. Amended certificate of authority

9 * * *

10 B. If a foreign limited liability company changes its name, it shall include,
11 with its application for an amended certificate of authority, a certificate or a certified
12 copy of the amendment in the case that the authorized official of the jurisdiction of
13 organization does not provide such certificate evidencing such change, ~~not a certified~~
14 ~~copy of the amendment to the articles of organization,~~ issued by the authorized
15 official of the jurisdiction of organization of such limited liability company.

16 §1349. Certificate of correction by a foreign limited liability company

17 * * *

18 C. A certificate of correction shall be executed in the name of the limited
19 liability company by a manager, if management of the limited liability company is
20 vested in one or more managers, or a member, if management is reserved to the
21 members of the limited liability company. The certificate of correction shall be
22 acknowledged by the person who signed it or may be executed by authentic act.

23 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 395 Engrossed

2023 Regular Session

Hilferty

Abstract: Provides for the filings and form requirements of certain business entities.

Present law (R.S. 9:3403(A)(1)) provides that a partnership contract should contain certain requirements.

Proposed law retains present law and adds that a partnership contract must be written in English.

Present law (R.S. 12:1-120(H)) provides that certain documents must be either acknowledged by one person who signed or notarized.

Proposed law retains present law and adds Articles of charter surrender to the list of documents.

Present law (R.S. 12:307(B), 310, 311(A), and 1348(B)) provides that a foreign corporation must file with its application for amended certificate of authority a certificate issued by an authorized official which evidences the corporation's requested amendments.

Proposed law retains present law and provides the option for the business entity to provide a certified copy of the amendment in lieu of a certificate by an authorized official.

Present law (R.S. 12: 307.1 and 1349) requires a certificate of correction to be executed in the name of a foreign corporation or LLC by any authorized officer. Present law further requires a certificate of correction to specify the inaccuracy or defects to be corrected.

Proposed law retains present law and requires that a certificate of correction for a foreign corporation and LLC to be notarized or duly acknowledged by one person who signed.

Proposed law (R.S. 12:1306(G)) adds that a written notice or waiver of notice from the Louisiana State Board of Architectural Examiners must be provided before a company can be filed with the words "architect" or "architecture".

Proposed law makes technical changes.

(Amends R.S. 9:3403(A)(1) and R.S. 12: 307(B), 307.1, 310, 311(A)(intro. para.), 1348(B), and 1349(C); Adds R.S. 12:1-120(H)(16) and 1306(G))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Make technical changes.