

2022 Regular Session

HOUSE BILL NO. 973

BY REPRESENTATIVE DAVIS

CORPORATIONS: Provides relative to corporations

1 AN ACT

2 To amend and reenact R.S. 9:2713.2(B)(introductory paragraph), R.S. 12:1-1106(A)(1),
3 204(A), and 1307(D), R.S. 22:243(D)(3) and (E)(1) and (3), and R.S.
4 51:214(A)(introductory paragraph) and 3143(B) and (C) and to enact R.S. 12:1-
5 402(D), 204(G)(4), and 1307(E), R.S. 49:222(B)(15), and R.S. 51:212(8), relative
6 to corporations; to provide for an authorized representative; to allow for termination
7 of a name reservation; to provide for merger; to prohibit certain phrases in a reserved
8 name; to provide for preemption; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 9:2713.2(B)(introductory paragraph) is hereby amended and
11 reenacted to read as follows:

12 §2713.2. Registration; renewal

13 * * *

14 B. An applicant's initial registration application shall be submitted on a form
15 prescribed by the secretary of state, and shall include a sworn certification by an
16 ~~owner, officer, director, or manager~~ authorized representative of the applicant, if the
17 applicant is an entity, or by the individual applicant if the applicant is an individual,
18 certifying that:

19 * * *

1 Section 2. R.S. 12:1-1106(A)(1), 204(A), and 1307(D) are hereby amended and
2 reenacted and R.S. 12:1-402(D), 204(G)(4), and 1307(E) are hereby enacted to read as
3 follows:

4 §1-402. Reserved name

5 * * *

6 D. The owner of the corporate name reservation may terminate the
7 reservation by delivering to the secretary of state a signed notice of termination.

8 * * *

9 §1-1106. Articles of merger or share exchange

10 A. After a plan of merger or share exchange has been adopted and approved
11 as required by this Subpart, articles of merger or share exchange shall be signed on
12 behalf of each party to the merger or share exchange by any officer or other duly
13 authorized representative. Articles of merger need not be signed on behalf of any
14 subsidiary that is a party to a merger authorized without the approval of the
15 subsidiary's board of directors or shareholders as permitted by R.S. 12:1-1105(A).
16 The articles shall set forth all of the following:

17 (1) The names of the parties to the merger or share exchange. In the case of
18 a merger, the name of the surviving entity. In the case of a share exchange, the name
19 of the corporation whose shares will be acquired and the name of the acquiring
20 corporation.

21 * * *

22 §204. Corporate name

23 A. The corporate name may be in any language, but expressed in English
24 letters or characters. The corporate name shall not imply that the corporation is an
25 administrative agency of this state, or any of its political subdivisions, or of the
26 United States. It shall not contain words or phrases that consist of or comprise
27 immoral, deceptive, or scandalous matter. It shall not contain the words "bank",
28 "banking", "banker", "savings", "trust", "deposit", "insurance", "mutual",
29 "assurance", "indemnity", "casualty", "fiduciary", "homestead", "building and loan",

1 "surety", "security", "guarantee", "cooperative", "state", "parish", "redevelopment
2 corporation", "electric cooperative", or "credit union". It shall not contain the phrase
3 "doing business as" or any abbreviation of that phrase, such as "d/b/a".

4 * * *

5 G.

6 * * *

7 (4) The owner of the reserved name may terminate the reservation by
8 delivering to the secretary of state a signed notice of termination.

9 * * *

10 §1307. Reservation of name; transfer of reserved name

11 * * *

12 D. The owner of the reserved name may terminate the reservation by
13 delivering to the secretary of state a signed notice of termination.

14 E. The secretary of state may prescribe and furnish forms to reserve the
15 name and transfer the name.

16 Section 3. R.S. 22:243(D)(3) and (E)(1) and (3) are hereby amended and reenacted
17 to read as follows:

18 §243. Incorporation

19 * * *

20 D.

21 * * *

22 (3) Except as provided in R.S. 12:1-203(C), the corporate existence begins
23 and the corporation is duly incorporated when the articles of incorporation become
24 effective as provided in R.S. 12:1-123 and 205(C).

25 * * *

26 E.(1) Except as otherwise provided in the articles of incorporation, an
27 incorporated health maintenance organization may amend its articles of
28 incorporation in the manner provided in R.S. 12:1-1003 and 237.

29 * * *

1 (3) The provisions of Paragraphs (1) and (2) of this Subsection are not
 2 applicable when an incorporated health maintenance organization changes either its
 3 registered agent or address, or both. In any such change, the incorporated health
 4 maintenance organization shall provide the commissioner with the board resolution
 5 and notice and shall follow the requirements of ~~Part 5 of Chapter 1 of Title 12 of the~~
 6 ~~Louisiana Revised Statutes of 1950~~ R.S. 12:1-501 through 1-504 and 236.

7 * * *

8 Section 4. R.S. 49:222(B)(15) is hereby enacted to read as follows:

9 §222. Fees chargeable by secretary of state

10 * * *

11 B. The secretary of state is authorized to collect the following fees:

12 * * *

13 (15) Motor vehicle service contract applications.

14 (a) Six hundred dollars for filing applications for motor vehicle service
 15 contract providers.

16 (b) Two hundred fifty dollars for filing renewals for motor vehicle service
 17 contract providers.

18 Section 5. R.S. 51:214(A)(introductory paragraph) and 3143(B) and (C) are hereby
 19 amended and reenacted and R.S. 51:212(8) is hereby enacted to read as follows:

20 §212. Registrability

21 A name or mark by which the name, goods, or services of any applicant for
 22 registration may be distinguished from the name, goods, or services of others shall
 23 not be registered if it:

24 * * *

25 (8) Consists of a matter or words that imply an affiliation with an
 26 administrative agency of this state, or any of its political subdivisions, or of the
 27 United States.

28 * * *

1 §214. Application for registration

2 A. Subject to the limitations set forth in this Subpart, any person who adopts
3 and uses a mark or name in this state may file in the office of the secretary of state,
4 on a form to be furnished by the secretary of state, an application for registration of
5 that mark or name setting forth but not limited to the following information written
6 in the English language:

7 * * *

8 §3143. Requirements for doing business

9 * * *

10 B. Each provider of a home service contract sold in this state shall file an
11 application for an initial registration with the secretary of state consisting of his
12 name, address, and contact person, designating a person in this state for service of
13 process, and providing a listing of all officers, all directors, and all owners of ten
14 percent or more of the business. Additionally, the provider shall file a copy of its
15 basic organizational documents, including articles of incorporation, articles of
16 organization, articles of association, or a partnership agreement. ~~Each application~~
17 ~~for registration shall be accompanied by a fee of six hundred dollars. All fees shall~~
18 ~~be paid to the secretary of state.~~

19 C. A registration shall be effective for two years; unless the registration is
20 denied or revoked. Ninety days prior to the expiration of a registration, a provider
21 shall submit a renewal application on a form prescribed by the secretary of state ~~and~~
22 ~~a renewal fee of two hundred fifty dollars. All fees shall be paid to the secretary of~~
23 ~~state.~~

24 * * *

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 973 Original

2022 Regular Session

Davis

Abstract: Makes changes relative to filing certain corporate documents with the secretary of state's office.

Present law provides that an applicant's initial registration application shall be submitted on a form prescribed by the secretary of state.

Present law provides that if the applicant is an entity, the applicant shall also submit a sworn certification by the applicant's owner, officer, director, or manager or if the applicant is an individual then the applicant can submit a sworn certification on his own behalf.

Proposed law changes the individuals who can submit a sworn certification on behalf of an applicant who is an entity to an authorized representative of the applicant. Proposed law otherwise retains present law.

Present law provides that after a plan of merger or share exchange has been adopted and approved, the articles of merger or share exchange shall be signed by any officer or other duly authorized representative on behalf of each party to the merger or share exchange.

Present law further provides that the articles of merger do not need to be signed on behalf of any subsidiary that is a party to a merger authorized without the approval of the subsidiary's board of directors or shareholders.

Proposed law retains present law.

Present law provides that the articles shall set forth all of the following:

- (1) The names of the parties to the merger or share exchange.
- (2) The amendments to the survivor's articles of incorporation or the articles of incorporation of the new corporation, if the articles of incorporation of the survivor of a merger are amended, or if a new corporation is created as a result of a merger.
- (3) A statement providing that the plan was duly approved by the shareholders, if the plan of merger or share exchange required approval by the shareholders of a domestic corporation that was a party to the merger or share exchange. Additionally, whether voting by any separate voting group was required and the articles of incorporation.
- (4) A statement providing if the plan of merger or share exchange did not require approval by the shareholders of a domestic corporation that was a party to the merger or share exchange.
- (5) As to each eligible entity or foreign corporation that was a party to the merger or share exchange, a statement that the participation of the eligible entity or foreign corporation was duly authorized as required by the organic law of the eligible entity or corporation.

Proposed law retains present law and provides that the articles, in the case of a merger, shall also set forth the name of the surviving entity and, in the case of a share exchange, the name of the corporation whose shares will be acquired and the name of the acquiring corporation.

Present law provides that the corporation's name may be in any language, but expressed in English letters or characters. Present law further provides that the corporation's name shall not imply that the corporation is an administrative agency or a political subdivision of this state or the United States.

Proposed law retains present law.

Present law provides that the corporation's name shall not contain words or phrases that consist of or comprise immoral, deceptive, or scandalous matter. Present law further provides a list of words that shall not in the corporation's name.

Proposed law extends present law by adding "doing business as" or any abbreviation of that phrase, such as "d/b/a", shall not be included in the corporation's name. Proposed law otherwise retains present law.

Present law provides that subject to the limitations set forth in present law, any person who adopts and uses a mark or name in this state may file in the secretary of state's office, on a form furnished by the secretary of state, an application for registration of that mark or name. Proposed law provides that the information contained on the form must be written in the English language. Proposed law otherwise retains present law.

Present law provides that each provider of a home service contract sold in this state shall file an application for an initial registration with the secretary of state.

Present law provides that the application for an initial registration shall contain the provider's name, address, and contact person. Present law further provides that the application shall also designate a person in this state for service of process and a listing of all of the officers, directors, and owners with 10% or more ownership in the business. Proposed law retains present law.

Present law provides that the provider shall file a copy of its basic organizational documents, including articles of incorporation, articles of organization, articles of association, or a partnership agreement. Present law further provides that the application of registration fee is \$600 and that the fee shall be paid to the secretary of state.

Proposed law deletes the fee requirement and that the fee shall be paid to the secretary of state. Proposed law otherwise retains present law.

Present law provides that a registration shall be effective for two years unless the registration is denied or revoked. Present law further provides that 90 days prior to the expiration of a registration, a provider shall submit a renewal application along with a renewal fee of \$250 to be paid to the secretary of state.

Proposed law deletes the renewal fee requirement and that the fee shall be paid to the secretary of state. Proposed law otherwise retains present law.

(Amends R.S. 9:2713.2(B)(intro. para.), R.S. 12:1-1106(A)(1), 204(A), and 1307(D), R.S. 22:243(D)(3) and (E)(1) and (3), and R.S. 51:214(A)(intro. para.) and 3143(B) and (C); Adds R.S. 12:1-402(D), 204(G)(4), and 1307(E), R.S. 49:222(B)(15), and R.S. 51:212(8))