

CHAPTER 332

GOVERNMENT - STATE

HOUSE BILL 24-1137

BY REPRESENTATIVE(S) Mauro and Taggart, Bird, Lindstedt, Ricks;
also SENATOR(S) Winter F. and Bridges.**AN ACT****CONCERNING IMPLEMENTING THE RECOMMENDATIONS OF THE FRAUDULENT FILINGS WORKING GROUP, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.***Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** In Colorado Revised Statutes, 7-90-102, **amend** (56) and (62) as follows:**7-90-102. Definitions.** As used in this title 7, except as otherwise defined for the purpose of any section, subpart, part, or article of this title 7, or unless the context otherwise requires:

(56) (a) "Registered agent address" means the street address and, if different, the mailing address of the registered agent's primary residence in this state or usual place of business in this state if the registered agent is an individual, or of the registered agent's usual place of business in this state if the registered agent is an entity.

(b) FOR PURPOSES OF THIS SUBSECTION (56), "USUAL PLACE OF BUSINESS" MEANS A PLACE IN THIS STATE THAT IS CUSTOMARILY OPEN DURING NORMAL BUSINESS HOURS AND WHERE AN INDIVIDUAL WHO IS AUTHORIZED TO PERFORM THE SERVICES OF A REGISTERED AGENT, INCLUDING ACCEPTING SERVICE OF PROCESS AND OTHER NOTIFICATIONS, IS COMMONLY PRESENT. "USUAL PLACE OF BUSINESS" DOES NOT INCLUDE A UNITED STATES OR COMMERCIAL POST OFFICE BOX.

(62) "Street address" means, with respect to a physical location, the street name and number, city, state, and (if not the United States) country, and the postal code, if any, that is required for delivery of mail to the location. If, by reason of rural location or otherwise, a street name and number, city, or town does not exist, "street

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

address" shall mean an appropriate description fixing as nearly as possible the actual physical location, but, for all locations in the United States, the county or parish and, if any, the rural free delivery route and the United States postal code shall be included. WITH RESPECT TO THE STREET ADDRESS OF A REGISTERED AGENT'S USUAL PLACE OF BUSINESS, AS DEFINED IN SUBSECTION (56)(b) OF THIS SECTION, "STREET ADDRESS" DOES NOT INCLUDE A UNITED STATES OR COMMERCIAL POST OFFICE BOX.

SECTION 2. In Colorado Revised Statutes, **amend** 7-90-301.5 as follows:

7-90-301.5. Act of causing document to be delivered for filing. BY causing a document to be delivered to the secretary of state for filing pursuant to this part 3, ~~shall constitute the affirmation or acknowledgment of each~~ AN individual ~~causing such delivery~~ AFFIRMS, under ~~penalties~~ PENALTY of perjury, that:

(1) The document is the individual's act and deed, or that the individual in good faith believes THAT the document is the act and deed of the person on whose behalf the ~~individual is causing the document to be~~ IS delivered for filing; ~~taken in conformity with the requirements of this part 3, the constituent documents, and the organic statutes, and that~~

(2) The individual in good faith believes THAT the facts stated in the document are true; and

(3) The document complies with the requirements of this part 3, the constituent documents, and the organic statutes.

SECTION 3. In Colorado Revised Statutes, 7-90-314, **amend** (2) introductory portion, (4)(f), (4)(g)(IV)(A), and (4)(g)(V)(A) as follows:

7-90-314. Fraudulent filings - complaint - review - referral to attorney general - referral to administrative law judge - marking filing as fraudulent - deceptive trade practice - definition. (2) **Complaint.** A LAW ENFORCEMENT AGENCY OR A person ~~that is~~ named in or otherwise affected by the filing of a document under this part 3 may submit a complaint to the secretary of state, on a form prescribed by the secretary of state, alleging that the filing was made in violation of subsection (1) of this section. The complaint must include at least the following information:

(4) **Review - attorney general - hearing and findings - administrative law judge.** (f) (I) If the attorney general does not receive a response within twenty-one days after mailing a second notice and demand as described in subsection (4)(e) of this section, each allegation in the notice and demand is deemed conceded by the person that did not respond, and the attorney general may certify that fact to the secretary of state. Upon receiving the certification, the secretary of state shall take the appropriate remedial action under subsections (4)(g)(V) and (4)(g)(VI) of this section based on the ~~facts~~ conceded ~~to in the~~ notice and demand.

(II) AS USED IN THIS SUBSECTION (4)(f), "CONCEDED NOTICE AND DEMAND" MEANS A NOTICE AND DEMAND DESCRIBED IN SUBSECTION (4)(e) OF THIS SECTION SENT BY THE ATTORNEY GENERAL TO WHICH THE ATTORNEY GENERAL DID NOT RECEIVE A RESPONSE AND IN WHICH, PURSUANT TO SUBSECTION (4)(f)(I) OF THIS

SECTION, EACH ALLEGATION IS DEEMED CONCEDED BY THE PERSON THAT DID NOT RESPOND.

(g) (IV) If the administrative law judge finds that subsection (1) of this section has been violated, the administrative law judge shall make an additional finding as to whether:

(A) An entity was created OR REGISTERED without authorization or for fraudulent purposes; or

(V) If the administrative law judge finds that, or if a conceded notice and demand sets forth that, an entity was created OR REGISTERED without authorization or for fraudulent purposes, the attorney general shall notify the secretary of state, who shall:

(A) Mark the business record with a notice that the entity is unauthorized or fraudulent AND IS DECLARED DELINQUENT PURSUANT TO SECTIONS 7-90-901 AND 7-90-902;

SECTION 4. In Colorado Revised Statutes, 7-90-701, **amend** (1) and (2); and **add** (4) as follows:

7-90-701. Registered agent - definition. (1) Every domestic entity for which a constituent filed document is on file in the records of the secretary of state and every foreign entity authorized to transact business or conduct activities in this state shall continuously maintain in this state a registered agent that ~~shall be~~ is:

(a) (I) An individual who is eighteen years of age or ~~older~~, OLDER AND whose primary residence or usual place of business is in this ~~state~~, STATE;

(II) TO ESTABLISH ELIGIBILITY PURSUANT TO THIS SUBSECTION (1)(a), AN INDIVIDUAL MUST EITHER:

(A) HOLD A CURRENT, VALID DRIVER'S LICENSE ISSUED BY THIS STATE OR AN IDENTIFICATION CARD ISSUED BY THIS STATE; OR

(B) OTHERWISE VERIFY THE INDIVIDUAL'S RESIDENCY STATUS WITH THE SECRETARY OF STATE CONSISTENT WITH THE SECRETARY OF STATE'S POLICIES, WHICH MUST BE DEVELOPED BEFORE JANUARY 1, 2025, IN COORDINATION WITH KEY COMMUNITY PARTNERS AND IMPACTED COMMUNITIES.

(b) A domestic entity IN GOOD STANDING AS LISTED IN THE SECRETARY OF STATE'S RECORDS AND having a usual place of business in this state; or

(c) A foreign entity authorized to transact business or conduct activities in this state that IS IN GOOD STANDING AS LISTED IN THE SECRETARY OF STATE'S RECORDS AND THAT has a usual place of business in this state.

(2) An entity IN GOOD STANDING AS LISTED IN THE SECRETARY OF STATE'S RECORDS AND having a usual place of business in this state may serve as its own registered agent.

(4) FOR PURPOSES OF THIS SECTION, "USUAL PLACE OF BUSINESS" HAS THE SAME MEANING AS SET FORTH IN SECTION 7-90-102 (5)(b).

SECTION 5. In Colorado Revised Statutes, 7-90-901, **amend** (1)(b), (1)(c), (2)(d), and (2)(e); and **add** (1)(d) and (2)(f) as follows:

7-90-901. Grounds for delinquency. (1) A domestic entity that is a reporting entity may be declared delinquent under section 7-90-902 if:

(b) The domestic entity does not comply with part 5 of this article, providing for reports from reporting entities; ~~or~~

(c) The domestic entity does not comply with part 7 of this article, providing for registered agents and service of process; OR

(d) AN ADMINISTRATIVE LAW JUDGE FINDS, OR A CONCEDED NOTICE AND DEMAND SETS FORTH, PURSUANT TO SECTION 7-90-314 (4)(g)(V), THAT THE DOMESTIC ENTITY WAS CREATED WITHOUT AUTHORIZATION OR FOR FRAUDULENT PURPOSES.

(2) A foreign entity that is a reporting entity may be declared delinquent under section 7-90-902 if:

(d) The foreign entity does not deliver for filing an appropriate statement of change when necessary to make its statement of foreign entity authority true in all respects; ~~or~~

(e) The secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of entity records in the jurisdiction under the law of which the foreign entity was formed to the effect that it no longer exists as the result of a dissolution or merger or otherwise; OR

(f) AN ADMINISTRATIVE LAW JUDGE FINDS, OR A CONCEDED NOTICE AND DEMAND SETS FORTH, PURSUANT TO SECTION 7-90-314 (4)(g)(V), THAT THE FOREIGN ENTITY WAS REGISTERED WITHOUT AUTHORIZATION OR FOR FRAUDULENT PURPOSES.

SECTION 6. In Colorado Revised Statutes, 7-90-902, **amend** (1) as follows:

7-90-902. Declaration of delinquency. (1) (a) If the secretary of state determines that one or more grounds exist under section 7-90-901 for declaring an entity delinquent and the entity does not correct each ground for declaring it delinquent or demonstrate to the reasonable satisfaction of the secretary of state that such ground does not exist within sixty days after the secretary of state makes such determination, the entity becomes delinquent following the expiration of such sixty days.

(b) IF THE SECRETARY OF STATE DETERMINES THAT GROUNDS EXIST UNDER SECTIONS 7-90-901 (1)(d) OR (2)(f) FOR DECLARING AN ENTITY DELINQUENT, THE ENTITY BECOMES DELINQUENT IMMEDIATELY UPON SUCH DETERMINATION AND IS NOT SUBJECT TO THE SIXTY-DAY PERIOD SET FORTH IN SUBSECTION (1)(a) OF THIS SECTION.

SECTION 7. In Colorado Revised Statutes, 7-90-904, **amend** (1) as follows:

7-90-904. Cure of delinquency. (1) (a) ~~A delinquent~~ AN ENTITY THAT HAS BEEN DELINQUENT FOR FEWER THAN FIVE YEARS may cure its delinquency by

~~(a)~~ delivering to the secretary of state, for filing pursuant to part 3 of this ~~article~~ ARTICLE 90, a statement curing delinquency ~~stating~~ THAT IS SIGNED BY AN INDIVIDUAL UNDER PENALTY OF PERJURY AND THAT STATES:

- (I) The entity's principal office address; and
- (II) The entity's registered agent's name and address.

(b) (Deleted by amendment, L. 2008, p. 23, § 17, effective August 5, 2008.)

(c) AN ENTITY THAT HAS BEEN DELINQUENT FOR FIVE YEARS OR LONGER MAY CURE ITS DELINQUENCY BY DELIVERING TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF THIS ARTICLE 90, THE FOLLOWING DOCUMENTS:

(I) A STATEMENT CURING DELINQUENCY THAT IS SIGNED BY AN INDIVIDUAL UNDER PENALTY OF PERJURY AND THAT STATES:

- (A) THE ENTITY'S PRINCIPAL OFFICE ADDRESS; AND
- (B) THE ENTITY'S REGISTERED AGENT'S NAME AND ADDRESS;

(II) AN AFFIDAVIT ATTESTING THAT THE INDIVIDUAL WHO SIGNED THE STATEMENT HAS THE AUTHORITY OF THE ENTITY TO SIGN FOR AND ACT ON BEHALF OF THE ENTITY; AND

(III) A COPY OF A GOVERNMENT-ISSUED PERSONAL PHOTOGRAPHIC IDENTIFICATION FOR THE INDIVIDUAL WHO SIGNED THE STATEMENT AND AFFIDAVIT.

SECTION 8. In Colorado Revised Statutes, 7-90-1003, **amend** (1) introductory portion; **repeal** (1)(d); and **add** (1.5) as follows:

7-90-1003. Articles of reinstatement. (1) ~~In order~~ To reinstate ~~an entity~~ under this part 10 AN ENTITY THAT HAS BEEN DISSOLVED FOR FEWER THAN TWO YEARS, AN INDIVIDUAL NAMED IN THE ARTICLES OF RESTATEMENT SHALL DELIVER articles of reinstatement ~~shall be delivered~~ to the secretary of state for filing pursuant to part 3 of this ~~article~~ ARTICLE 90 stating:

~~(d) The date of dissolution of the entity, if known;~~

(1.5) TO REINSTATE UNDER THIS PART 10 AN ENTITY THAT HAS BEEN DISSOLVED FOR TWO YEARS OR LONGER OR FOR WHICH THE PERIOD OF DISSOLUTION IS NOT KNOWN BASED ON THE RECORDS OF THE SECRETARY OF STATE, AN INDIVIDUAL NAMED IN THE ARTICLES OF RESTATEMENT SHALL DELIVER TO THE SECRETARY OF STATE FOR FILING PURSUANT TO PART 3 OF THIS ARTICLE 90 THE FOLLOWING DOCUMENTS:

(a) ARTICLES OF REINSTATEMENT STATING:

(I) THE DOMESTIC ENTITY NAME OF THE ENTITY;

(II) THE DOMESTIC ENTITY NAME OF THE ENTITY FOLLOWING REINSTATEMENT, WHICH ENTITY NAME SHALL COMPLY WITH SECTION 7-90-1004;

(III) THE DATE OF FORMATION OF THE ENTITY;

(IV) THE COLORADO STATUTE UNDER WHICH THE ENTITY EXISTED IMMEDIATELY PRIOR TO ITS DISSOLUTION;

(V) THE DATE OF DISSOLUTION OF THE ENTITY, IF KNOWN;

(VI) A STATEMENT THAT ALL APPLICABLE CONDITIONS OF SECTION 7-90-1002 HAVE BEEN SATISFIED;

(VII) THE ADDRESS OF THE ENTITY'S PRINCIPAL OFFICE; AND

(VIII) THE NAME AND ADDRESS OF THE ENTITY'S REGISTERED AGENT;

(b) AN AFFIDAVIT ATTESTING THAT THE INDIVIDUAL WHO DELIVERED THE ARTICLES OF REINSTATEMENT HAS THE AUTHORITY OF THE ENTITY TO SIGN FOR AND ACT ON BEHALF OF THE ENTITY; AND

(c) A COPY OF A GOVERNMENT-ISSUED PERSONAL PHOTOGRAPHIC IDENTIFICATION FOR THE INDIVIDUAL WHO DELIVERED THE ARTICLES OF REINSTATEMENT AND SIGNED THE AFFIDAVIT.

SECTION 9. Appropriation. (1) For the 2024-25 state fiscal year, \$464,310 is appropriated to the department of state. This appropriation is from the department of state cash fund created in section 24-21-104 (3)(b), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$93,580 for use by the business and licensing division for personal services, which amount is based on an assumption that the division will require an additional 2.0 FTE;

(b) \$16,000 for use by the business and licensing division for operating expenses;

(c) \$348,160 for use by the information technology division for personal services; and

(d) \$6,570 for use by the information technology division for operating expenses.

SECTION 10. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general

election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) Section 4 of this act applies to registered agents on and after July 1, 2025.

Approved: June 3, 2024