

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE ENROLLED ACT No. 377

AN ACT to amend the Indiana Code concerning business and other associations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 23-1-18-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1.1. (a) For purposes of this article, except for a biennial report filed under IC 23-1-53-4, a document is delivered for filing if the document is transferred to the secretary of state by hand, mail, ~~telecopy, facsimile,~~ or **other** a form of electronic transmission meeting the requirements established by the secretary of state.

(b) If a document is delivered for filing by hand or mail, the document must be accompanied by:

(1) two (2) exact or conformed copies of a document filed under IC 23-1-24-3 or IC 23-1-49-9; or

(2) one (1) exact or conformed copy of any other document filed under this article.

(c) ~~The office of the secretary of state shall create any copies of a document delivered by telecopy facsimile, or other form of electronic transmission that are required for distribution under this article.~~

SECTION 2. IC 23-1-18-3, AS AMENDED BY P.L.106-2008, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) The secretary of state shall collect the following fees when the documents described in this subsection are delivered to the secretary of state for filing:

SEA 377 — Concur



| | Document | Electronic Filing Fee | Fee (Other than electronic filing) |
|------|--|-----------------------|------------------------------------|
| (1) | Articles of incorporation | \$75 | \$90 |
| (2) | Application for use of indistinguishable name | \$10 | \$20 |
| (3) | Application for reserved name | \$10 | \$20 |
| (4) | Application for renewal of reservation | \$10 | \$20 |
| (5) | Notice of transfer of reserved name | \$10 | \$20 |
| (6) | Application for registered name | \$20 | \$30 |
| (7) | Application for renewal of registered name | \$20 | \$30 |
| (8) | Corporation's statement of change of registered agent or registered office or both | No Fee | No Fee |
| (9) | Agent's statement of change of registered office for each affected corporation | No Fee | No Fee |
| (10) | Agent's statement of resignation | No Fee | No Fee |
| (11) | Amendment of articles of incorporation | \$20 | \$30 |
| (12) | Restatement of articles of incorporation | \$20 | \$30 |
| | with amendment of articles | \$20 | \$30 |
| (13) | Articles of merger or share exchange | \$75 | \$90 |
| (14) | Articles of dissolution | \$20 | \$30 |
| (15) | Articles of revocation of dissolution | \$20 | \$30 |
| (16) | Certificate of administrative dissolution | No Fee | No Fee |
| (17) | Application for reinstatement following administrative dissolution | \$20 | \$30 |
| (18) | Certificate of reinstatement | No Fee | No Fee |
| (19) | Certificate of judicial dissolution | No Fee | No Fee |



| | | | |
|------|---|--------|--------|
| (20) | Application for certificate of authority | \$75 | \$90 |
| (21) | Application for amended certificate of authority | \$20 | \$30 |
| (22) | Application for certificate of withdrawal | \$20 | \$30 |
| (23) | Certificate of revocation of authority to transact business | No Fee | No Fee |
| (24) | Biennial report | \$20 | \$30 |
| (25) | Articles of correction | \$20 | \$30 |
| (26) | Application for certificate of existence or authorization | \$15 | \$15 |
| (27) | Any other document required or permitted to be filed by this article, including an application for any other certificates or certification certificate (except for any such other certificates that the secretary of state may determine to issue without additional fee in connection with particular filings) and a request for other facts of record under section 9(b)(6) of this chapter | \$20 | \$30 |

The secretary of state shall prescribe the electronic means of filing documents to which the electronic filing fees set forth in this section apply.

(b) The fee set forth in subsection (a)(24) for filing a biennial report is:

(1) fifteen dollars (\$15) per year, for a filing in writing; ~~including facsimile~~; and

(2) ten dollars (\$10) per year, for a filing by electronic means; to be paid biennially.

(c) The secretary of state shall collect a fee of ten dollars (\$10) each time process is served on the secretary of state under this article. If the party to a proceeding causing service of process prevails in the proceeding, then that party is entitled to recover this fee as costs from the nonprevailing party.

(d) The secretary of state shall collect the following fees for copying



and certifying the copy of any filed document relating to a domestic or foreign corporation:

- (1) Per page for copying \$ 1
- (2) For a certification stamp \$15

SECTION 3. IC 23-1-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. Unless its articles of incorporation provide otherwise, every corporation has perpetual duration and succession in its corporate name and has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including without limitation power to:

- (1) sue and be sued, complain and defend in its corporate name;
- (2) have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it (however, the use of a corporate seal or an impression thereof is not required and does not affect the validity of any instrument whatsoever, notwithstanding any other statutes);
- (3) make and amend bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for managing the business and regulating the affairs of the corporation;
- (4) purchase, receive, lease, or otherwise acquire and own, hold, improve, use, and otherwise deal with real or personal property, or any legal or equitable interest in property, wherever located;
- (5) sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;
- (6) purchase, receive, subscribe for, or otherwise acquire; own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and deal in and with shares or other interests in, or obligations of, any entity, including itself, except as otherwise prohibited by this article;
- (7) make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations (which may be convertible into or include the option to purchase other securities of the corporation), and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income;
- (8) lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment;
- (9) be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity;
- (10) conduct its business, locate offices, and exercise the powers granted by this article within or without Indiana;
- (11) elect directors, elect and appoint officers, and appoint

SEA 377 — Concur



employees and agents of the corporation, define their duties, fix their compensation, and lend them money and credit;

(12) pay pensions and establish and administer pension plans, pension trusts, profit sharing plans, share bonus plans, share option plans, welfare plans, qualified and nonqualified retirement plans, and benefit or incentive plans for any or all of its current or former directors, officers, employees, and agents;

(13) make donations for the public welfare or for charitable, scientific, or educational purposes;

(14) transact any lawful business that will aid governmental policy; ~~and~~

(15) make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the corporation; **and**

(16) adopt, either in the corporation's articles of incorporation or bylaws, a provision establishing exclusive jurisdiction in the circuit or superior courts of any county in Indiana or in the United States district courts of Indiana, for:

(A) any derivative action brought on behalf of, or in the name of the corporation;

(B) any action asserting a claim for breach of a fiduciary duty owed by any director, officer, employee, or agent of the corporation to:

(i) the corporation; or

(ii) any of the corporation's constituents identified in IC 23-1-35-1(d);

(C) any action asserting a claim arising under:

(i) any provision of this article; or

(ii) the corporation's articles of incorporation or bylaws;
or

(D) any actions otherwise relating to the internal affairs of the corporation.

SECTION 4. IC 23-1-24-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) Each corporation must continuously maintain in Indiana:

(1) a registered office; and

(2) a registered agent, who must be:

(A) an individual who resides in Indiana and whose business office is identical with the registered office;

(B) a domestic corporation or not-for-profit domestic corporation **limited liability company, domestic corporation, or nonprofit domestic corporation** whose



business office is identical with the registered office; or
 (C) a foreign corporation or not-for-profit foreign corporation
**limited liability company, foreign corporation, or
 nonprofit foreign corporation** authorized to transact business
 in Indiana whose business office is identical with the
 registered office.

**(b) Each corporation incorporated after June 30, 2014, shall file
 with the secretary of state:**

- (1) the registered agent's written consent; or**
- (2) a representation that the registered agent has consented.**

**(c) Each corporation incorporated under the laws of Indiana
 shall provide to the corporation's registered agent, and update
 from time to time as necessary, the name, business address, and
 business telephone number of a natural person who is:**

- (1) an officer, a director, an employee, or a designated agent
 of the corporation; and**
- (2) authorized to receive communications from the registered
 agent.**

**The natural person is considered to be the communications contact
 for the corporation.**

**(d) A registered agent shall retain, in paper or electronic form,
 the information provided by a corporation under subsection (c).**

**(e) If a corporation fails to provide the registered agent with the
 information required under subsection (c), the registered agent
 may resign, as provided in section 3 of this chapter, as the
 registered agent for the corporation.**

SECTION 5. IC 23-1-46-2 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) If the secretary
 of state determines that one (1) or more grounds exist under section 1
 of this chapter for dissolving a corporation, the secretary of state shall
 serve the corporation with written notice of the determination under
 IC 23-1-24-4 **unless the secretary of state:**

- (1) receives a receipt showing failure of service of process
 upon the corporation's registered agent at the address of the
 registered office; and**
- (2) determines that the secretary of state's office has no
 record of the corporation's principal office address.**

**(b) If the corporation does not correct each ground for dissolution
 or demonstrate to the reasonable satisfaction of the secretary of state
 that each ground determined by the secretary of state does not exist
 within sixty (60) days after service of the notice is perfected under
 IC 23-1-24-4, the secretary of state shall administratively dissolve the**



corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the corporation under IC 23-1-24-4.

(c) A corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under IC 6-8.1-10-9 and IC 23-1-45-5 and notify claimants under IC 23-1-45-6 and IC 23-1-45-7.

(d) The administrative dissolution of a corporation does not terminate the authority of its registered agent.

SECTION 6. IC 23-1-49-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. **(a)** Each foreign corporation authorized to transact business in Indiana must continuously maintain in Indiana:

- (1) a registered office; and
- (2) a registered agent, who may be:
 - (A) an individual who resides in Indiana and whose business office is identical with the registered office;
 - (B) a domestic corporation or not-for-profit domestic corporation **limited liability company, domestic corporation, or nonprofit domestic corporation** whose business office is identical with the registered office; or
 - (C) a foreign corporation or foreign not-for-profit corporation **limited liability company, foreign corporation, or nonprofit foreign corporation** authorized to transact business in Indiana whose business office is identical with the registered office.

(b) Each foreign corporation qualified after June 30, 2014, to do business in Indiana shall file with the secretary of state:

- (1) the registered agent's written consent; or**
- (2) a representation that the registered agent has consented.**

(c) Each foreign corporation qualified to do business in Indiana shall provide to the foreign corporation's registered agent, and update from time to time as necessary, the name, business address, and business telephone number of a natural person who is:

- (1) an officer, a director, an employee, or a designated agent of the foreign corporation; and**
- (2) authorized to receive communications from the registered agent.**

The natural person is considered to be the communications contact for the foreign corporation.



(d) A registered agent shall retain, in paper or electronic form, the information provided by a foreign corporation under subsection (c).

(e) If a foreign corporation fails to provide the registered agent with the information required under subsection (c), the registered agent may resign, as provided in section 9 of this chapter, as the registered agent for the foreign corporation.

SECTION 7. IC 23-1-51-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) If the secretary of state determines that one (1) or more grounds exist under section 1 of this chapter for revocation of a certificate of authority, the secretary of state shall, under IC 23-1-49-10, serve the foreign corporation with written notice of the determination, **unless the secretary of state:**

(1) receives a receipt showing failure of service of process upon the foreign corporation's registered agent at the address of the registered office; and

(2) determines that the secretary of state's office has no record of the foreign corporation's principal office address.

(b) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty (60) days after service of the notice is perfected under IC 23-1-49-10, the secretary of state may revoke the foreign corporation's certificate of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the foreign corporation under IC 23-1-49-10.

(c) The authority of a foreign corporation to transact business in Indiana ceases on the date shown on the certificate revoking its certificate of authority.

(d) The secretary of state's revocation of a foreign corporation's certificate of authority appoints the secretary of state the foreign corporation's agent for service of process in any proceeding based on a cause of action that arose during the time the foreign corporation was authorized to transact business in Indiana. Service of process on the secretary of state under this subsection is service on the foreign corporation. Upon receipt of process, the secretary of state shall mail a copy of the process to the secretary of the foreign corporation at its principal office shown in its most recent annual report or in any subsequent communication received from the corporation stating the current mailing address of its principal office, or, if none are on file, in



its application for a certificate of authority.

(e) Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the corporation.

SECTION 8. IC 23-1-51-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2.5. (a) A foreign corporation that has had its certificate of authority revoked under section 2 of this chapter may apply to the secretary of state for reinstatement. The application for reinstatement must include all the following:

- (1) The name of the foreign corporation.**
- (2) The effective date of the revocation of the foreign corporation's certificate of authority.**
- (3) A statement that the ground or grounds for revocation of the foreign corporation's certificate of authority either did not exist or have been eliminated.**
- (4) A statement that the foreign corporation's name satisfies the requirements of IC 23-1-23-1 or IC 23-1-49-6.**
- (5) A certificate from the department of state revenue stating that all taxes owed by the foreign corporation have been paid.**

(b) If the secretary of state determines that the application contains the information required under subsection (a) and that the information is correct, the secretary of state shall:

- (1) cancel the certificate of revocation of the foreign corporation's certificate of authority; and**
- (2) prepare a certificate of reinstatement that states:**
 - (A) that the certificate of revocation of the foreign corporation's certificate of authority has been canceled; and**
 - (B) the date that the reinstatement is effective;**
- (3) file the original certificate of reinstatement; and**
- (4) serve, as provided in IC 23-1-49-10, a copy of the certificate of reinstatement on the foreign corporation.**

(c) When the certificate of reinstatement is effective, the certificate of reinstatement relates back to and is considered to take effect as of the effective date of the revocation of the foreign corporation's certificate of authority and the foreign corporation resumes carrying on its business as if the revocation of the foreign corporation's certificate of authority had never occurred.

SECTION 9. IC 23-1-51-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) If the secretary of state denies a foreign corporation's application for reinstatement under section 2.5 of this chapter, the secretary of



state shall serve, as provided in IC 23-1-49-10, the foreign corporation with a written notice that explains the reason or reasons for denial.

~~(a)~~ **(b)** The foreign corporation may appeal the secretary of state's revocation of its certificate of authority **denial of reinstatement** to the circuit or superior court of the county in which its registered office is located within thirty (30) days after service of the certificate of revocation is perfected. ~~under IC 23-1-49-10~~. The foreign corporation appeals by petitioning the court to set aside the revocation and attaching to the petition copies of its certificate of authority and all the following:

- (1)** The secretary of state's certificate of revocation.
- (2)** The foreign corporation's application for reinstatement described in section 2.5 of this chapter.
- (3)** The secretary of state's notice of denial described in subsection (a).

~~(b)~~ **(c)** The court may order the secretary of state to reinstate the certificate of authority or may take any other action the court considers appropriate.

~~(c)~~ **(d)** The court's final decision may be appealed as in other civil proceedings.

SECTION 10. IC 23-4-1-50 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 50. ~~(+)~~ **(a)** A limited liability partnership and a foreign limited liability partnership must continuously maintain in Indiana the following:

- ~~(a)~~ **(1)** A registered office.
- ~~(b)~~ **(2)** A registered agent, who must be one (1) of the following:
 - ~~(+)~~ **(A)** An individual who resides in Indiana and whose business office is identical with the registered office.
 - ~~(+)~~ **(B)** A domestic limited liability partnership, domestic limited liability company, domestic corporation, or nonprofit domestic corporation whose business office is identical with the registered office.
 - ~~(+)~~ **(C)** A foreign limited liability partnership, foreign limited liability company, foreign corporation, or nonprofit foreign corporation authorized to transact business in Indiana whose business office is identical with the registered office.

(b) Each limited liability partnership formed after June 30, 2014, under the laws of Indiana and each foreign limited liability partnership that qualifies, after June 30, 2014, to do business in Indiana shall file with the secretary of state:

- (1)** the registered agent's written consent; or



(2) a representation that the registered agent has consented.

(c) Each limited liability partnership and each foreign limited liability partnership shall provide to its registered agent, and update from time to time as necessary, the name, business address, and business telephone number of a natural person who is:

(1) an officer, a director, an employee, or a designated agent of the partnership; and

(2) authorized to receive communications from the registered agent.

The natural person is considered to be the communications contact for the partnership.

(d) A registered agent shall retain, in paper or electronic form, the information provided by a partnership under subsection (c).

(e) If a limited liability partnership or a foreign limited liability partnership fails to provide the registered agent with the information required under subsection (c), the registered agent may resign, as provided in section 51 of this chapter, as the registered agent for the partnership.

~~(f)~~ (f) A limited liability partnership or a foreign limited liability partnership may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth the following:

~~(a)~~ (1) The name of the partnership.

~~(b)~~ (2) The street address of the partnership's current registered office.

~~(c)~~ (3) If the current registered office is to be changed, the street address of the new registered office.

~~(d)~~ (4) The name of the partnership's current registered agent.

~~(e)~~ (5) If the current registered agent is to be changed, the name of the new registered agent and the new registered agent's written consent or a representation that the new registered agent has consented either on the statement or attached to the statement to the appointment.

~~(f)~~ (6) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

~~(g)~~ (g) If a registered agent changes the street address of the registered agent's business office, the registered agent may change the street address of the registered office of any limited liability partnership or foreign limited liability partnership that the registered agent serves by notifying the partnership in writing of the change and signing ~~either manually or in facsimile~~ and delivering to the secretary of state for



filing a statement that complies with the requirements of ~~paragraph (2)~~ **subsection (f)** and states that the partnership has been notified of the change.

SECTION 11. IC 23-4-1-59 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2014]: **Sec. 59. A person who signs a document that the person knows is false in a material respect, with the intent that the document be delivered to the secretary of state for filing, commits a Class A misdemeanor.**

SECTION 12. IC 23-15-1-1, AS AMENDED BY P.L.133-2009, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) Except as otherwise provided in section 2 of this chapter, a person or general partnership conducting or transacting business in Indiana under a name, designation, or title other than the real name of the person or general partnership conducting or transacting the business shall file for record, in the office of the recorder of each county in which a place of business or an office of the person or general partnership is situated, a certificate stating the assumed name or names to be used and the full name and address of the person or general partnership engaged in or transacting business.

(b) The recorder shall keep a record of the certificates filed under this section and shall keep an index of the certificates showing, in alphabetical order, the names of the persons and general partnerships having certificates on file in the recorder's office, and the assumed name or names which they intend to use in carrying on their businesses as shown by the certificates.

(c) Before the dissolution of any business for which a certificate is on file with the recorder, the person or general partnership to which the certificate appertains shall file a notice of dissolution for record in the recorder's office.

(d) The county recorder shall charge a fee in accordance with IC 36-2-7-10 for each certificate, notice of dissolution, and notice of discontinuance of use filed with the recorder's office and recorded under this chapter. The funds received shall be receipted as county funds the same as other money received by the recorders.

(e) Except as provided in section 2 of this chapter:

- (1) a corporation conducting business in Indiana under a name, designation, or title other than the name of the corporation as shown by its articles of incorporation;
- (2) a foreign corporation conducting business in Indiana under a name, designation, or title other than the name of the foreign corporation as shown by its application for a certificate of



authority to transact business in Indiana;

(3) a limited partnership conducting business in Indiana under a name, designation, or title other than the name of the limited partnership as shown by its certificate of limited partnership;

(4) a foreign limited partnership conducting business in Indiana under a name, designation, or title other than the name of the limited partnership as shown by its application for registration;

(5) a limited liability company conducting business in Indiana under a name, designation, or title other than as shown by its articles of organization;

(6) a foreign limited liability company conducting business in Indiana under a name, designation, or title other than the name of the limited liability company as shown by its application for registration;

(7) a limited liability partnership conducting business in Indiana under a name, designation, or title other than the name of the limited liability partnership as shown by its application for registration; and

(8) a foreign limited liability partnership conducting business in Indiana under a name, designation, or title other than the name of the limited liability partnership as shown by its application for registration;

shall file with the secretary of state a certificate stating the assumed name or names to be used and the full name and address of the corporation's, limited partnership's, limited liability company's, or limited liability partnership's, foreign or domestic, principal office in Indiana.

(f) An entity may not include an entity indicator, such as "Inc.", "Corp.", "LLC", "LP", "LLP", or similar description in an assumed business name filing, that is inconsistent with the entity type for which the assumed business name is being filed. However, if the entity filing the assumed business name has filed articles of conversion, domestication, or merger that changes the entity type, the entity indicator in the assumed business name filing may be inconsistent with the entity type if the conversion, domestication, or merger occurred within the twelve (12) months before the date of the assumed business name filing.

(g) A person, general partnership, corporation, limited partnership, limited liability company, or limited liability partnership, foreign or domestic, that has filed a certificate of assumed business name or names under subsection (a) or (e) may file a notice of discontinuance of use of assumed business name or names with the



secretary of state or with the recorder's office in which the certificate was filed or transferred. The secretary of state or the recorder shall keep a record of notices filed under this subsection.

~~(g)~~ **(h)** This subsection applies to a foreign or domestic corporation, limited partnership, limited liability company, or limited liability partnership that, before July 1, 2009:

- (1) filed a certificate stating the assumed name or names to be used in carrying out the entity's business; and
- (2) filed the certificate:
 - (A) with the secretary of state; and
 - (B) in the recorder's office.

The entity shall file a notice of dissolution or notice of discontinuance of use of the assumed business name or names with the secretary of state and with the recorder's office in which the certificate was filed or transferred.

~~(h)~~ **(i)** The secretary of state shall collect the following fees when a copy of a certificate is filed with the secretary of state under subsection (e):

- (1) A fee of:
 - (A) twenty dollars (\$20) for an electronic filing; or
 - (B) thirty dollars (\$30) for a filing other than an electronic filing;
 from a corporation (other than a nonprofit corporation), limited liability company, or a limited partnership.
- (2) A fee of:
 - (A) ten dollars (\$10) for an electronic filing; or
 - (B) twenty-six dollars (\$26) for a filing other than an electronic filing;
 from a nonprofit corporation.

The secretary of state shall prescribe the electronic means of filing certificates for purposes of collecting fees under this subsection. A fee collected under this subsection is in addition to any other fee collected by the secretary of state.

SECTION 13. IC 23-15-2-1 IS REPEALED [EFFECTIVE JULY 1, 2014]. ~~Sec. 1. Any corporation, for profit or not for profit, now or hereafter organized under the laws of the state of Indiana and any foreign corporation, for profit or not for profit, now or hereafter admitted to do business in the state of Indiana, which is required or permitted to designate and have a resident agent, may designate and have as such resident agent a corporation authorized to transact business in the state of Indiana and authorized by its articles or certificate of incorporation to act as such agent. Such corporate resident~~

SEA 377 — Concur



agent shall possess all of the powers and have all of the duties conferred or imposed upon the resident agent of any such corporation; and whenever or wherever in any statute of this state the term "person" is used or appears in relation to such resident agent, said term shall be deemed to include a corporate resident agent. Service of any legal process upon a corporate resident agent, as resident agent, may be made by serving a copy thereof on the president, a vice-president, the secretary, or an assistant secretary of said corporate resident agent.

SECTION 14. IC 23-15-10 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

Chapter 10. Issuance of Interrogatories and Investigative Claims

Sec. 1. As used in this chapter, "entity" means any entity listed in IC 23-1-20-10.

Sec. 2. The secretary of state may propound to any:

- (1) domestic or foreign entity that the secretary of state has reason to believe is subject to the provisions of this title under which the domestic entity was created or foreign entity is permitted to transact business in Indiana; and
- (2) any officer, director, member, manager, or partner of the entity described in subdivision (1);

any written interrogatories as may be reasonably necessary and proper to enable the secretary of state to ascertain whether the entity was formed using suspected fraudulent or fictitious filings or is being used to commit fraud.

Sec. 3. (a) The interrogatories must be answered not later than thirty (30) days after the date the interrogatories are mailed or within an additional period approved, in writing, by the secretary of state. The answers to the interrogatories must be:

- (1) full and complete; and
- (2) made in writing and under oath.

(b) If the interrogatories are directed to an individual, the individual shall answer the interrogatories.

(c) If the interrogatories are directed to an entity, a duly appointed officer, an agent, a member, a manager, or a partner of the entity shall answer the interrogatories.

Sec. 4. The secretary of state shall certify to the attorney general, for an action as the attorney general reasonably considers appropriate, all interrogatories and answers to the interrogatories that disclose a violation of any of the provisions of this title under which the entity was created, requiring or permitting action by the



attorney general.

Sec. 5. The secretary of state may:

- (1) remove fraudulent filings from the secretary of state's record for the entity; or**
- (2) administratively dissolve or revoke a certificate of authority;**

for failure to timely and adequately respond to interrogatories under section 3 of this chapter.

Sec. 6. The secretary of state may adopt rules under IC 4-22-2 that are necessary to carry out this chapter.

SECTION 15. IC 23-16-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) Each limited partnership shall have and continuously maintain:

- (1) an office at an address set forth in the certificate of limited partnership that:
 - (A) may be (but need not be) a place of its business in Indiana; and
 - (B) must be the repository for the records required to be maintained by section 6 of this chapter; and
- (2) a registered agent whose business address is in Indiana, for service of process on the limited partnership, which agent must be:
 - (A) an individual resident of Indiana; or
 - (B) a domestic corporation or a foreign corporation authorized to do business in Indiana.

(b) Each limited partnership formed after June 30, 2014, under the laws of Indiana shall file with the secretary of state:

- (1) the registered agent's written consent; or**
- (2) a representation that the registered agent has consented.**

(c) Each limited partnership formed under the laws of Indiana shall provide to the limited partnership's registered agent, and update from time to time as necessary, the name, business address, and business telephone number of a natural person who is:

- (1) an officer, a director, an employee, or a designated agent of the limited partnership; and**
- (2) authorized to receive communications from the registered agent.**

The natural person is considered to be the communications contact for the limited partnership.

(d) A registered agent shall retain, in paper or electronic form, the information provided by a limited partnership under subsection (c).



(e) If a limited partnership fails to provide the registered agent with the information required under subsection (c), the registered agent may resign, as provided in section 4 of this chapter, as the registered agent for the limited partnership.

~~(b)~~ **(f)** A limited partnership may change its registered agent by delivering to the secretary of state for filing a statement containing the following:

- (1) The name of the limited partnership.
- (2) The name of its current registered agent.
- (3) The name and business address of the new registered agent and the new agent's consent to the appointment (either on the statement or attached to it).

~~(c)~~ **(g)** If a registered agent changes the address of the registered agent's business office, the registered agent must notify the limited partnership in writing of the change, and sign and deliver to the secretary of state for filing a statement that complies with the requirements of subsection ~~(b)~~ **(f)** and recites that the limited partnership has been notified of the change.

SECTION 16. IC 23-16-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) Except as provided in subsection (b), a foreign limited partnership may register with the secretary of state under any name (whether or not it is the name under which it is registered in the jurisdiction of its organization) that:

- (1) includes the words "limited partnership" or the abbreviation "L.P."; and
- (2) could be registered by a domestic limited partnership.

(b) A foreign limited partnership may apply to the secretary of state to use a name that is not distinguishable upon the secretary of state's records from one (1) or more of the names described in subsection (a). The secretary of state shall authorize use of the name applied for if:

- (1) the other domestic or foreign limited partnership files its written consent to the use of its name, signed by any current general partner of the other limited partnership and verified subject to the penalties for perjury; or
- (2) the applicant delivers to the secretary of state a certified copy of a final court judgment establishing the applicant's right to use the name applied for in Indiana.

(c) Each foreign limited partnership shall have and maintain:

- (1) an office, which may be (but need not be) a place of its business in Indiana; and
- (2) a registered agent whose business address is in Indiana for



service of process on the foreign limited partnership, which may be:

- (A) an individual resident of Indiana; or
- (B) a domestic corporation or a foreign corporation authorized to transact business in Indiana.

(d) Each foreign limited partnership that qualifies after June 30, 2014, to do business in Indiana shall file with the secretary of state:

- (1) the registered agent's written consent; or**
- (2) a representation that the registered agent has consented.**

(e) Each foreign limited partnership qualified to do business in Indiana shall provide to the foreign limited partnership's registered agent, and update from time to time as necessary, the name, business address, and business telephone number of a natural person who is:

- (1) an officer, a director, an employee, or a designated agent of the foreign limited partnership; and**
- (2) authorized to receive communications from the registered agent.**

The natural person is considered to be the communications contact for the foreign limited partnership.

(f) A registered agent shall retain, in paper or electronic form, the information provided by a foreign limited partnership under subsection (e).

(g) If a foreign limited partnership fails to provide the registered agent with the information required under subsection (e), the registered agent may resign, as provided in subsection (j), as the registered agent for the foreign limited partnership.

(~~d~~) (h) A foreign limited partnership may change its registered agent by delivering to the secretary of state for filing a statement containing the following:

- (1) The name of the foreign limited partnership.**
- (2) The name of its current registered agent.**
- (3) The name and business address of the new registered agent and the new agent's consent to the appointment (either on the statement or attached to it).**

(~~e~~) (i) If a registered agent changes the address of the registered agent's business office, the registered agent must notify the foreign limited partnership in writing of the change, and sign and deliver to the secretary of state for filing a statement that complies with the requirements of subsection (~~d~~) (h) and recites that the foreign limited partnership has been notified of the change.

(~~f~~) (j) A registered agent may resign the agency appointment by



signing and delivering to the secretary of state for filing the signed original and two (2) exact or conformed copies of a statement of resignation. After filing the statement, the secretary of state shall mail one (1) copy to the partnership at the office referred to in subsection (c)(1). The agency appointment is terminated on the thirty-first day after the date on which the statement was filed.

SECTION 17. IC 23-16-12-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5.1. (a) For purposes of this article, a document is delivered for filing if the document is transferred to the secretary of state by hand, mail, ~~telecopy; facsimile;~~ or ~~other a~~ form of electronic transmission meeting the requirements established by the secretary of state.

(b) If a document is delivered for filing by hand or mail, the document must be accompanied by:

- (1) two (2) exact or conformed copies of a document filed under IC 23-16-2-4 or IC 23-16-10-4; or
- (2) one (1) exact or conformed copy of any other document filed under this article.

(c) ~~The office of the secretary of state shall create any copies of a document delivered by telecopy facsimile; or other form of electronic transmission that are required for distribution under this article:~~

SECTION 18. IC 23-16-12-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 7. A person who signs a document that the person knows is false in a material respect with the intent that the document be delivered to the secretary of state for filing commits a Class A misdemeanor.**

SECTION 19. IC 23-17-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. Unless a corporation's articles of incorporation provide otherwise, a corporation has perpetual duration and succession in the corporation's corporate name and has the same powers as an individual to do all things necessary or convenient to carry out the corporation's affairs, including the power to do the following:

- (1) Sue, be sued, complain, and defend in the corporation's corporate name.
- (2) Have a corporate seal or facsimile of a corporate seal, which may be altered at will, to use by impressing or affixing or in any other manner reproducing it. However, the use or impression of a corporate seal is not required and does not affect the validity of any instrument.
- (3) Make and amend bylaws not inconsistent with the



corporation's articles of incorporation or with Indiana law for managing the affairs of the corporation.

(4) Purchase, receive, take by gift, devise, or bequest, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located.

(5) Sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of the corporation's property.

(6) Purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with, shares or other interests in, or obligations of any entity.

(7) Make contracts and guaranties, incur liabilities, borrow money, issue notes, bonds, and other obligations and secure any of the corporation's obligations by mortgage or pledge of any of the corporation's property, franchises, or income.

(8) Lend money, invest and reinvest the corporation's funds, and receive and hold real and personal property as security for repayment, except as provided under IC 23-17-13-3.

(9) Be a promoter, a partner, a member, an associate or a manager of any partnership, joint venture, trust, or other entity.

(10) Conduct the corporation's activities, locate offices, and exercise the powers granted by this article inside or outside Indiana.

(11) Elect directors, elect and appoint officers, and appoint employees and agents of the corporation, define the duties and fix the compensation of directors, officers, employees and agents.

(12) Pay pensions and establish pension plans, pension trusts, and other benefit and incentive plans for the corporation's current or former directors, officers, employees, and agents.

(13) Make donations not inconsistent with law for the public welfare or for charitable, religious, scientific, or educational purposes and for other purposes that further the corporate interest.

(14) Impose dues, assessments, admission, and transfer fees upon the corporation's members.

(15) Establish conditions for admission of members, admit members, and issue memberships.

(16) Carry on a business.

(17) Have and exercise powers of a trustee as permitted by law, including those set forth in IC 30-4-3-3.

(18) Purchase and maintain insurance on behalf of any individual who:



(A) is or was a director, an officer, an employee, or an agent of the corporation; or

(B) is or was serving at the request of the corporation as a director, an officer, an employee, or an agent of another entity; against any liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a director, an officer, an employee, or an agent, whether or not the corporation would have power to indemnify the individual against the same liability under this article.

(19) Do all things necessary or convenient, not inconsistent with law, to further the activities and affairs of the corporation.

(20) Adopt, either in the corporation's articles of incorporation or bylaws, a provision establishing exclusive jurisdiction in the circuit or superior courts of any county in Indiana or in the United States district courts of Indiana, for:

(A) any action asserting a claim for breach of a fiduciary duty owed by any director, officer, employee, or agent of the corporation to the corporation;

(B) any action asserting a claim arising under:

(i) any provision of this article; or

(ii) the corporation's articles of incorporation or bylaws;
or

(C) any actions otherwise relating to the internal affairs of the corporation.

SECTION 20. IC 23-17-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. **(a)** A corporation must continuously maintain the following in Indiana:

(1) A registered office.

(2) A registered agent, who must be one (1) of the following:

(A) An individual who resides in Indiana and whose business office is identical with the registered office.

~~(B) A business or nonprofit corporation~~ **A domestic limited liability company, domestic corporation, or nonprofit domestic corporation** whose business office is identical with the registered office.

~~(C) A foreign business or nonprofit corporation~~ **limited liability company, foreign corporation, or nonprofit foreign corporation** authorized to transact business in Indiana whose business office is identical with the registered office.

(b) Each corporation incorporated after June 30, 2014, under the laws of Indiana shall file with the secretary of state:

(1) the registered agent's written consent; or



(2) a representation that the registered agent has consented.

(c) Each corporation formed under the laws of Indiana shall provide to the corporation's registered agent, and update from time to time as necessary, the name, business address, and business telephone number of a natural person who is:

(1) an officer, a director, an employee, or a designated agent of the corporation; and

(2) authorized to receive communications from the registered agent.

The natural person is considered to be the communications contact for the corporation.

(d) A registered agent shall retain, in paper or electronic form, the information provided by a corporation under subsection (c).

(e) If a corporation fails to provide the registered agent with the information required under subsection (c), the registered agent may resign, as provided in section 3 of this chapter, as the registered agent for the corporation.

SECTION 21. IC 23-17-23-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) If the secretary of state determines that a ground exists under section 1 of this chapter for dissolving a corporation, the secretary of state shall serve the corporation with written notice of the determination under IC 23-17-6-4 **unless the secretary of state:**

(1) receives a receipt showing failure of service of process upon the corporation's registered agent at the address of the registered office; and

(2) determines that the secretary of state's office has no record of the corporation's principal office address.

(b) If the corporation does not:

(1) correct each ground for dissolution; or

(2) demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist;

within at least sixty (60) days after service of the notice is perfected under IC 23-17-6-4, the secretary of state may administratively dissolve the corporation by signing a certificate of dissolution that recites the grounds for dissolution and the effective date of the dissolution. The secretary of state shall file the original of the certificate and serve a copy on the corporation under IC 23-17-6-4.

(c) A corporation administratively dissolved continues the corporation's corporate existence but may not carry on any activities except those necessary to wind up and liquidate the corporation's



affairs under IC 23-17-22-5 and notify the corporation's claimants under IC 23-17-22-6 and IC 23-17-22-7.

(d) The administrative dissolution of a corporation does not terminate the authority of the corporation's registered agent.

SECTION 22. IC 23-17-26-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. **(a)** A foreign corporation authorized to transact business in Indiana must continuously maintain in Indiana:

- (1) a registered office; and
- (2) a registered agent, who may be:
 - (A) an individual who resides in Indiana and whose business office is identical with the registered office;
 - (B) a ~~corporation incorporated or authorized to transact business under IC 23-1~~ **domestic limited liability company, domestic corporation, or nonprofit domestic corporation** whose business office is identical with the registered office; or
 - (C) a ~~foreign business or nonprofit corporation~~ **limited liability company, foreign corporation, or nonprofit foreign corporation** authorized to transact business in Indiana whose **business** office is identical with the registered office. or
 - ~~(D) a nonprofit entity organized or authorized to transact business in Indiana whose office is identical with the registered office.~~

(b) Each foreign corporation that qualifies after June 30, 2014, to do business in Indiana shall file with the secretary of state:

- (1) the registered agent's written consent; or**
- (2) a representation that the registered agent has consented.**

(c) Each foreign corporation qualified to do business in Indiana shall provide to the foreign corporation's registered agent, and update from time to time as necessary, the name, business address, and business telephone number of a natural person who is:

- (1) an officer, a director, an employee, or a designated agent of the foreign corporation; and**
- (2) authorized to receive communications from the registered agent.**

The natural person is considered to be the communications contact for the foreign corporation.

(d) A registered agent shall retain, in paper or electronic form, the information provided by a foreign corporation under subsection (c).

(e) If a foreign corporation fails to provide the registered agent with the information required under subsection (c), the registered



agent may resign, as provided in section 9 of this chapter, as the registered agent for the foreign corporation.

SECTION 23. IC 23-17-26-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 13. (a) If the secretary of state determines that a ground exists under section 12 of this chapter for revocation of a certificate of authority, the secretary of state shall, under section 10 of this chapter, serve the foreign corporation with written notice of the determination **unless the secretary of state:**

- (1) receives a receipt showing failure of service of process upon the foreign corporation's registered agent at the address of the registered office; and**
- (2) determines that the secretary of state's office has no record of the foreign corporation's principal office address.**

(b) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty (60) days after service of the notice is perfected under section 10 of this chapter, the secretary of state may revoke the foreign corporation's certificate of authority by signing a certificate of revocation that recites the ground for revocation and the revocation's effective date. The secretary of state shall file the original of the certificate and serve a copy on the foreign corporation under section 10 of this chapter.

(c) The authority of a foreign corporation to transact business in Indiana ceases on the date shown on the certificate revoking the foreign corporation's certificate of authority.

(d) The secretary of state's revocation of a foreign corporation's certificate of authority appoints the secretary of state the foreign corporation's agent for service of process in any proceeding based on a cause of action that arose during the time the foreign corporation was authorized to transact business in Indiana. Service of process on the secretary of state under this subsection is service on the foreign corporation. Upon receipt of process, the secretary of state shall mail a copy of the process to the secretary of the foreign corporation at the foreign corporation's principal office shown in the foreign corporation's most recent annual report or in any subsequent communication received from the corporation stating the current mailing address of the foreign corporation's principal office, or, if a report or communication is not on file, in the foreign corporation's application for a certificate of authority.

(e) Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the foreign



corporation.

SECTION 24. IC 23-17-26-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 13.5. (a) A foreign corporation that has had its certificate of authority revoked under section 13 of this chapter may apply to the secretary of state for reinstatement. The application for reinstatement must include all the following:**

- (1) The name of the foreign corporation.**
- (2) The effective date of the revocation of the foreign corporation's certificate of authority.**
- (3) A statement that the ground or grounds for revocation of the foreign corporation's certificate of authority either did not exist or have been eliminated.**
- (4) A statement that the foreign corporation's name satisfies the requirements of IC 23-17-5-1 or section 6 of this chapter.**
- (5) A certificate from the department of state revenue stating that all taxes owed by the foreign corporation have been paid.**

(b) If the secretary of state determines that the application contains the information required under subsection (a) and that the information is correct, the secretary of state shall:

- (1) cancel the certificate of revocation of the foreign corporation's certificate of authority; and**
- (2) prepare a certificate of reinstatement that states:**
 - (A) that the certificate of revocation of the foreign corporation's certificate of authority has been canceled; and**
 - (B) the date that the reinstatement is effective;**
- (3) file the original certificate of reinstatement; and**
- (4) serve, as provided in section 10 of this chapter, a copy of the certificate of reinstatement on the foreign corporation.**

(c) When the certificate of reinstatement is effective, the certificate of reinstatement relates back to and is considered to take effect as of the effective date of the revocation of the foreign corporation's certificate of authority and the foreign corporation resumes carrying on its business as if the revocation of the foreign corporation's certificate of authority had never occurred.

SECTION 25. IC 23-17-26-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 14. (a) If the secretary of state denies a foreign corporation's application for reinstatement under section 13.5 of this chapter, the secretary of state shall serve, as provided in section 10 of this chapter, the foreign corporation with a written notice that explains the reason**



or reasons for denial.

~~(a)~~ **(b)** A foreign corporation may appeal the secretary of state's revocation of the foreign corporation's certificate of authority **denial of reinstatement** to the circuit or superior court of the county in which the foreign corporation's registered office is located within thirty (30) days after service of the certificate of revocation is perfected. ~~under section 10 of this chapter.~~ The foreign corporation appeals by petitioning the court to set aside the revocation and attaching to the petition copies of the foreign corporation's certificate of authority and **all the following:**

- (1) The secretary of state's certificate of revocation.**
- (2) The foreign corporation's application for reinstatement described in section 13.5 of this chapter.**
- (3) The secretary of state's notice of denial described in subsection (a).**

~~(b)~~ **(c)** The court may do the following:

- (1) Order the secretary of state to reinstate the certificate of authority.
- (2) Take any other action the court considers appropriate.

~~(c)~~ **(d)** The court's final decision may be appealed as in other civil proceedings.

SECTION 26. IC 23-17-29-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1.1. (a) For purposes of this article, a document is delivered for filing if the document is transferred to the secretary of state by hand, mail, ~~telecopy, facsimile,~~ or ~~other~~ a form of electronic transmission meeting the requirements established by the secretary of state.

(b) If a document is delivered for filing by hand or mail, the document must be accompanied by:

- (1) two (2) exact or conformed copies of a document filed under IC 23-17-6-3 or IC 23-17-26-9; or
- (2) one (1) exact or conformed copy of any other document filed under this article.

~~(c) The office of the secretary of state shall create any copies of a document delivered by telecopy, facsimile, or other form of electronic transmission that are required for distribution under this article.~~

SECTION 27. IC 23-17-31 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

Chapter 31. Domestication of Nonprofit Corporation

Sec. 1. (a) A foreign nonprofit corporation may become a domestic nonprofit corporation only if the domestication is



permitted by the organic law of the domiciliary state of the foreign nonprofit corporation. The laws of Indiana govern the effect of domesticating a foreign nonprofit corporation in Indiana under this chapter.

(b) A domestic nonprofit corporation may become a foreign nonprofit corporation only if the domestication is permitted by the laws of the foreign jurisdiction where the domestic nonprofit corporation is seeking redomestication. Regardless of whether the laws of the foreign jurisdiction require the adoption of a plan of domestication, the domestication must be approved by the adoption by the nonprofit corporation of a plan of domestication in the manner provided in this section. The laws of the foreign jurisdiction govern the effect of domesticating in that jurisdiction.

(c) The plan of domestication must include:

- (1) a statement of the jurisdiction in which the nonprofit corporation is to be domesticated;
- (2) the terms and conditions of the domestication; and
- (3) any desired amendments to the articles of incorporation of the nonprofit corporation following its domestication.

Sec. 2. In the case of a domestication of a domestic nonprofit corporation in a foreign jurisdiction, the plan of domestication must be adopted by the board of directors.

Sec. 3. (a) After the domestication of a foreign nonprofit corporation has been authorized as required by the laws of the foreign jurisdiction, the articles of domestication must be executed by an officer or other authorized representative. The articles must set forth:

- (1) the name of the nonprofit corporation immediately before the filing of the articles of domestication and, if that name is unavailable for use in Indiana or the nonprofit corporation desires to change its name in connection with the domestication, a name that satisfies the requirements of IC 23-17-5-1;
- (2) the jurisdiction of incorporation of the nonprofit corporation immediately before the filing of the articles of domestication in that jurisdiction; and
- (3) a statement that the domestication of the nonprofit corporation in Indiana was authorized as required by the laws of the jurisdiction in which the nonprofit corporation was incorporated immediately before its domestication under this chapter.

(b) The articles of domestication must either contain all the



provisions that IC 23-17-3-2 requires to be set forth in articles of incorporation and any other desired provisions that IC 23-17-3-3 permits to be included in the articles of incorporation or must have attached articles of incorporation. In either case, provisions that would not be required to be included in restated articles of incorporation may be omitted.

(c) The articles of domestication must be delivered to the secretary of state for filing and are effective at the time provided in IC 23-17-29-4.

(d) If the foreign corporation is authorized to transact business in this state under IC 23-17-26, its certificate of authority is canceled automatically on the effective date of its domestication.

Sec. 4. (a) Whenever a domestic nonprofit corporation has adopted and approved, in the manner required by this chapter, a plan of domestication providing for the nonprofit corporation to be domesticated in a foreign jurisdiction, an officer or another authorized representative of the domestic nonprofit corporation must execute articles of charter surrender on behalf of the domestic nonprofit corporation. The articles of charter surrender must set forth:

- (1) the name of the nonprofit corporation;
- (2) a statement that the articles of charter surrender are being filed in connection with the domestication of the nonprofit corporation in a foreign jurisdiction;
- (3) a statement that the domestication was approved by the board of directors; and
- (4) the nonprofit corporation's new jurisdiction of incorporation.

(b) The articles of charter surrender must be delivered by the nonprofit corporation to the secretary of state for filing. The articles of charter surrender are effective at the time provided in IC 23-17-29-4.

Sec. 5. When a domestication of a foreign nonprofit corporation in Indiana becomes effective:

- (1) the title to all real and personal property, both tangible and intangible, held by the nonprofit corporation remains in the nonprofit corporation without reversion or impairment;
- (2) the liabilities of the nonprofit corporation remain the liabilities of the nonprofit corporation;
- (3) an action or proceeding pending against the nonprofit corporation continues against the nonprofit corporation as if the domestication had not occurred;



(4) the articles of domestication, or the articles of incorporation attached to the articles of domestication, constitute the articles of incorporation of the nonprofit corporation;

(5) the nonprofit corporation is considered to:

(A) be incorporated under the laws of Indiana for all purposes;

(B) be the same nonprofit corporation without interruption as the nonprofit corporation that existed under the laws of the foreign jurisdiction; and

(C) have been incorporated on the date it was originally incorporated in the foreign jurisdiction.

Sec. 6. (a) Unless otherwise provided in a plan of domestication of a domestic nonprofit corporation, after the plan has been adopted and approved as required by this chapter, and at any time before the domestication has become effective, the plan of domestication may be abandoned by the board of directors.

(b) If a domestication is abandoned under subsection (a) after articles of charter surrender have been filed with the secretary of state but before the domestication has become effective, a statement that the domestication has been abandoned under this section, executed by an officer or other authorized representative, must be delivered to the secretary of state for filing before the effective date of the domestication. The statement is effective upon filing and the domestication is abandoned and may not become effective.

(c) If the domestication of a foreign nonprofit corporation in Indiana is abandoned under the laws of the foreign jurisdiction after articles of domestication have been filed with the secretary of state, a statement that the domestication has been abandoned, executed by an officer or other authorized representative, must be delivered to the secretary of state for filing. The statement is effective upon filing and the domestication is abandoned and may not become effective.

SECTION 28. IC 23-18-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. Unless the limited liability company's articles of organization provide otherwise, every limited liability company has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including the following:

(1) Sue, be sued, complain, and defend in its name.

(2) Make and amend operating agreements, not inconsistent with



its articles of organization or with the laws of this state, for managing the business and regulating the affairs of the limited liability company.

(3) Purchase, receive, lease, or otherwise acquire and own, hold, improve, use, and otherwise deal with real or personal property, or any legal or equitable interest in property, wherever located.

(4) Sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property.

(5) Except as otherwise prohibited by this article:

(A) purchase, receive, subscribe for, or otherwise acquire;

(B) own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and

(C) deal in and with shares, interests, obligations, or other securities of;

any corporation, partnership, association, limited liability company, foreign limited liability company, or business trust.

(6) Make contracts and guarantees, incur liabilities, borrow money, and issue notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income.

(7) Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment.

(8) Be a promoter, a stockholder, a partner, a member, a manager, an associate, or an agent of any corporation, partnership, limited liability company, foreign limited liability company, joint venture, trust, or other enterprise.

(9) Conduct its business, locate offices, and exercise the powers granted by this article within or outside Indiana.

(10) Elect or appoint managers, agents, and employees, define their duties, fix their compensation, and lend them money and credit.

(11) Pay pensions and establish and administer pension plans, pension trusts, profit-sharing plans, welfare plans, qualified and nonqualified retirement plans, and benefit or incentive plans for any or all of its current or former managers, employees, and agents.

(12) Make donations for public welfare, charitable, scientific, or educational purposes.

(13) Transact any lawful business that will aid governmental policy.

(14) Indemnify and hold harmless any member, manager, agent, or employee from and against any and all claims and demands,



except in the case of action or failure to act by the member, agent, or employee which constitutes willful misconduct or recklessness and subject to any standards and restrictions set forth in a written operating agreement.

(15) To the extent authorized by the licensing authority (as defined in IC 23-1.5-1-9) provide professional services (as defined in IC 23-1.5-1-11).

(16) Make payments or donations or do any other act that furthers the business and affairs of the limited liability company.

(17) Adopt, either in the limited liability company's articles of organization or written operating agreement, a provision establishing exclusive jurisdiction in the circuit or superior courts of any county in Indiana or in the United States district courts of Indiana, for:

(A) any action asserting a claim for breach of a fiduciary duty owed by any director, officer, employee, or agent of the limited liability company to the limited liability company;

(B) any action asserting a claim arising under:

(i) any provision of this article; or

(ii) the limited liability company's articles of organization or operating agreement; or

(C) any actions otherwise relating to the internal affairs of the limited liability company.

SECTION 29. IC 23-18-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. **(a)** A limited liability company must continuously maintain in Indiana the following:

(1) A registered office.

(2) A registered agent, who must be one (1) of the following:

(A) An individual who resides in Indiana and whose business office is identical with the registered office.

(B) A domestic limited liability company, domestic corporation, or nonprofit domestic corporation whose business office is identical with the registered office.

(C) A foreign limited liability company, foreign corporation, or nonprofit foreign corporation authorized to transact business in Indiana whose business office is identical with the registered office.

(b) Each limited liability company organized after June 30, 2014, under the laws of Indiana shall file with the secretary of state:

(1) the registered agent's written consent; or



(2) a representation that the registered agent has consented.

(c) Each limited liability company formed under the laws of Indiana shall provide to the limited liability company's registered agent, and update from time to time as necessary, the name, business address, and business telephone number of a natural person who is:

- (1) an officer, a director, an employee, or a designated agent of the limited liability company; and**
- (2) authorized to receive communications from the registered agent.**

The natural person is considered to be the communications contact for the limited liability company.

(d) A registered agent shall retain, in paper or electronic form, the information provided by a limited liability company under subsection (c).

(e) If a limited liability company fails to provide the registered agent with the information required under subsection (c), the registered agent may resign, as provided in section 12 of this chapter, as the registered agent for the limited liability company.

SECTION 30. IC 23-18-3-2.5, AS ADDED BY P.L.40-2013, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2.5. If the written operating agreement of a limited liability company provides for officers as permitted by IC 23-18-4-4(a)(3), the following apply:

- (1) Each officer has ~~only~~ those powers and duties: ~~specified~~**
 - (A) set forth, generally or specifically in the written operating agreement; or**
 - (B) otherwise delegated to an officer from time to time by the:**
 - (i) manager or managers of a manager-managed limited liability company; or**
 - (ii) member or members of a member-managed limited liability company;**
- in a manner consistent with the written operating agreement.**

(2) Each officer has the status of an agent of the limited liability company for purposes of section 3 of this chapter.

(3) If an officer acts within the officer's apparent authority to carry on the business of the limited liability company in the usual way, the officer's actions bind the limited liability company to the same extent as the actions of a manager would bind a limited liability company under section 1.1(c)(2) and 1.1(d) of this chapter.



(4) Notice to an officer of a matter relating to the business or affairs of the limited liability company, or the knowledge of the officer acting in the particular matter, is notice to the limited liability company to the same extent that notice to a manager or knowledge of a manager would be treated as notice to a limited liability company under section 2(b)(1) of this chapter.

SECTION 31. IC 23-18-3-2.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2014]: **Sec. 2.6. Section 2.5 of this chapter and IC 23-18-4-4(a)(3) are not intended to adversely affect the validity of:**

(1) any provision of a written operating agreement in effect before July 1, 2014, that:

(A) provides for an officer or officers; or

(B) sets forth the powers or duties of an officer or officers;
or

(2) any act by an officer before July 1, 2014.

SECTION 32. IC 23-18-4-4, AS AMENDED BY P.L.40-2013, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) A written operating agreement may do one (1) or more of the following:

(1) Modify, increase, decrease, limit, or eliminate the duties (including fiduciary duties) or the liability of a member or manager for breach of the duties set forth in section 2(a) of this chapter.

(2) Provide for indemnification of a member or manager for judgments, settlements, penalties, fines, or expenses incurred in a proceeding to which a person is a party because the person is or was a member or manager.

(3) Provide for officers of a limited liability company that is:

(A) managed by a manager or managers; or

(B) managed by a member or members;

by specifying the title, powers, duties, and term of office (either perpetual or for a specific term) for each officer and the means by which each officer is to be appointed, elected, or reelected, **or by authorizing in the written operating agreement the authority of the manager or managers of a manager-managed limited liability company or the member or members of a member-managed limited liability company to otherwise establish officers and the titles, powers, duties, and terms of office of the officers.**

(4) Provide that one (1) or more persons who are not members or



managers have the right to approve or disapprove any of one (1) or more specified actions with respect to the limited liability company, including:

- (A) voluntary dissolution;
- (B) merger; or
- (C) amending the written operating agreement.

(b) If a person who is not a member or manager is given the right to approve or disapprove specified actions as permitted by subsection (a)(4), the person does not have the general right to vote with the members or managers regarding any matters unless specifically provided otherwise in the written operating agreement.

SECTION 33. IC 23-18-6-2.5, AS ADDED BY P.L.40-2013, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2.5. (a) Unless otherwise limited or prohibited in a written operating agreement, any member interest in a limited liability company:

(1) may be designated as a transfer on death property under IC 32-17-14, with:

- (A) the member as the owner of the interest; and
 - (B) one (1) or more transfer on death beneficiaries designated;
- or

(2) may be titled and held in joint tenancy with right of survivorship between two (2) or more individuals.

(b) The following apply upon the death of a person who is the owner of a member interest designated as a transfer on death property:

(1) Each surviving transfer on death beneficiary has the status of an assignee of **all or** a fractional or percentage portion of the entire member interest owned by the deceased owner, **depending on the number of surviving transfer on death beneficiaries**, consistent with the transfer on death beneficiary designation, until that transfer on death beneficiary is admitted as a member of the limited liability company.

(2) The rights and obligations of each surviving transfer on death beneficiary with respect to the member interest are subject to all:

- (A) transfer restrictions;
- (B) redemption options; or
- (C) other provisions;

that apply to the member's interest or member interests generally under a written operating agreement.

(c) The following apply upon the death of a person who is the owner of a member interest held in joint tenancy:

(1) Each surviving joint tenant has the status of an assignee of **all**



or a fractional or percentage portion of the entire member interest, depending on the number of surviving joint tenants, until the surviving joint tenant is admitted as a member of the limited liability company unless the surviving joint tenant was already a member under subsection (d) before the death of each other joint tenant.

(2) The rights and obligations of each surviving joint tenant with respect to the member interest are subject to all:

- (A) transfer restrictions;
- (B) redemption options; or
- (C) other provisions;

that apply to the member interest generally under a written operating agreement.

(d) If a member interest in a limited liability company is originally and initially issued in joint tenancy form to two (2) or more individuals, each joint tenant has the voting rights of a member unless otherwise provided in the written operating agreement. If an individual member:

- (1) receives and holds a member interest as the sole owner; and
- (2) at a later date, makes a lawful transfer of the member interest to be held in joint tenancy between the member and one (1) or more other persons;

then, unless otherwise provided in a written operating agreement, each other person, while all joint tenants are alive, has the status of an assignee of a fractional part of the member interest until the other person is admitted as a member of the limited liability company.

SECTION 34. IC 23-18-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. The secretary of state may commence a proceeding under section 2 of this chapter to administratively dissolve a limited liability company if:

- (1) the limited liability company does not deliver its biennial report to the secretary of state not more than sixty (60) days after the biennial report is due;
- (2) the limited liability company is without a registered agent or registered office in Indiana for at least sixty (60) days;
- (3) the limited liability company does not notify the secretary of state not more than sixty (60) days after its registered agent or registered office has been changed, its registered agent has resigned, or its registered office has been discontinued; **or**
- (4) the period of duration stated in the limited liability company's articles of organization expires; **or**
- (5) the limited liability company fails to pay franchise taxes or penalties imposed by this article or another law within sixty**



(60) days after the date that the franchise taxes or penalties are due.

SECTION 35. IC 23-18-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) If the secretary of state determines that one (1) or more grounds exist under section 1 of this chapter for dissolving a limited liability company, the secretary of state shall serve the limited liability company with written notice of the determination under IC 23-18-2-13 **unless the secretary of state:**

(1) receives a receipt showing failure of service of process upon the limited liability company's registered agent at the address of the registered office; and

(2) determines that the secretary of state's office has no record of the limited liability company's principal office address.

(b) If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist not more than sixty (60) days after service of the notice is perfected under IC 23-18-2-13, the secretary of state shall administratively dissolve the limited liability company by signing a certificate of dissolution that states the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the limited liability company under IC 23-18-2-13.

SECTION 36. IC 23-18-11-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8. **(a)** Each foreign limited liability company authorized to transact business in Indiana must continuously maintain in Indiana the following:

(1) A registered office.

(2) A registered agent, who may be:

(A) an individual who resides in Indiana and whose business office is identical with the registered office;

(B) a domestic limited liability company, domestic corporation, or nonprofit domestic corporation whose business office is identical with the registered office; or

(C) a foreign limited liability company, foreign corporation, or foreign nonprofit corporation authorized to transact business in Indiana whose business office is identical with the registered office.

(b) Each foreign limited liability company that qualifies after June 30, 2014, to do business in Indiana shall file with the secretary of state:

SEA 377 — Concur



- (1) the registered agent's written consent; or
- (2) a representation that the registered agent has consented.

(c) Each foreign limited liability company qualified to do business in Indiana shall provide to the foreign limited liability company's registered agent, and update from time to time as necessary, the name, business address, and business telephone number of a natural person who is:

- (1) an officer, a director, an employee, or a designated agent of the foreign limited liability company; and
- (2) authorized to receive communications from the registered agent.

The natural person is considered to be the communications contact for the foreign limited liability company.

(d) A registered agent shall retain, in paper or electronic form, the information provided by a foreign limited liability company under subsection (c).

(e) If a foreign limited liability company fails to provide the registered agent with the information required under subsection (c), the registered agent may resign, as provided in section 10 of this chapter, as the registered agent for the foreign limited liability company.

SECTION 37. IC 23-18-11-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 15. The secretary of state may commence a proceeding under section 16 of this chapter to revoke the certificate of authority of a foreign limited liability company authorized to transact business in Indiana if at least one (1) of the following applies:

- (1) The foreign limited liability company does not deliver its biennial report to the secretary of state within sixty (60) days after the biennial report is due.
- (2) The foreign limited liability company is without a registered agent or registered office in Indiana for at least sixty (60) days.
- (3) The foreign limited liability company does not inform the secretary of state under section 9 or 10 of this chapter that its:
 - (A) registered agent or registered office has changed;
 - (B) registered agent has resigned; or
 - (C) registered office has been discontinued;

within sixty (60) days of the change, resignation, or discontinuance.

- (4) A member, a manager, or an agent of the foreign limited liability company signed a document the member, manager, or agent knew was false in a material respect with the intent that the



document be delivered to the secretary of state for filing.

(5) The secretary of state receives an authenticated certificate from the secretary of state or other official having custody of business entity records in the state or country under whose laws the foreign limited liability company is organized stating that it has dissolved or disappeared as the result of a merger.

(6) The foreign limited liability company fails to pay franchise taxes or penalties imposed by this article or another law within sixty (60) days after the date the franchise taxes or penalties are due.

SECTION 38. IC 23-18-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 16. (a) If the secretary of state determines that one (1) or more grounds exist under section 15 of this chapter for revocation of a certificate of authority, the secretary of state shall, under section 11 of this chapter, serve the foreign limited liability company with written notice of the determination **unless the secretary of state:**

(1) receives a receipt showing failure of service of process upon the foreign limited liability company's registered agent at the address of the registered office; and

(2) determines that the secretary of state's office has no record of the foreign limited liability company's principal office address.

(b) If the foreign limited liability company does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist not more than sixty (60) days after service of the notice is perfected under section 11 of this chapter, the secretary of state may revoke the foreign limited liability company's certificate of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the foreign limited liability company under section 11 of this chapter.

(c) The authority of a foreign limited liability company to transact business in Indiana ceases on the date shown on the certificate revoking the certificate of authority.

(d) The secretary of state's revocation of a foreign limited liability company's certificate of authority appoints the secretary of state the foreign limited liability company's agent for service of process in a proceeding based on a cause of action that arose during the time the foreign limited liability company was authorized to transact business in Indiana. Service of process on the secretary of state under this

SEA 377 — Concur



subsection is service on the foreign limited liability company. Upon receipt of process, the secretary of state shall mail a copy of the process to the foreign limited liability company at its principal office shown in the most recent communication received from the corporation stating the current mailing address of its principal office or, if it is not on file, in its application for a certificate of authority.

(e) Revocation of a foreign limited liability company's certificate of authority does not terminate the authority of the registered agent of the limited liability company.

SECTION 39. IC 23-18-11-16.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 16.5. (a) A foreign limited liability company that has had its certificate of authority revoked under section 16 of this chapter may apply to the secretary of state for reinstatement. The application for reinstatement must include all the following:**

- (1) The name of the foreign limited liability company.**
- (2) The effective date of the revocation of the foreign limited liability company's certificate of authority.**
- (3) A statement that the ground or grounds for revocation of the foreign limited liability company's certificate of authority either did not exist or have been eliminated.**
- (4) A statement that the foreign limited liability company's name satisfies the requirements of IC 23-18-2-8 or section 7 of this chapter.**
- (5) A certificate from the department of state revenue stating that all taxes owed by the foreign limited liability company have been paid.**

(b) If the secretary of state determines that the application contains the information required under subsection (a) and that the information is correct, the secretary of state shall:

- (1) cancel the certificate of revocation; and**
- (2) prepare a certificate of reinstatement that states:**
 - (A) that the certificate of revocation has been canceled;**
 - and**
 - (B) the date that the reinstatement is effective;**
- (3) file the original certificate of reinstatement; and**
- (4) serve, as provided in section 11 of this chapter, a copy of the certificate of reinstatement on the foreign limited liability company.**

(c) When the certificate of reinstatement is effective, the certificate of reinstatement relates back to and is considered to



take effect as of the effective date of the revocation of the foreign limited liability company's certificate of authority and the foreign limited liability company resumes carrying on its business as if the revocation of the foreign limited liability company's certificate of authority had never occurred.

SECTION 40. IC 23-18-11-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 17. **(a) If the secretary of state denies a foreign limited liability company's application for reinstatement following revocation of a certificate of authority, the secretary of state shall serve the foreign limited liability company under IC 23-18-11-11 with a written notice that explains the reason or reasons for the denial.**

~~(a)~~ **(b)** A foreign limited liability company may appeal the secretary of state's ~~revocation of its certificate of authority~~ **denial of reinstatement** to the circuit or superior court of the county where the foreign limited liability company's registered office is located not more than thirty (30) days after service of the certificate of revocation is perfected. ~~under section 11 of this chapter by doing the following:~~

- ~~(1) Filing a petition with the court to set aside the revocation;~~
- ~~(2) Attaching to the petition copies of its certificate of authority and the secretary of state's certificate of revocation.~~

If the foreign limited liability company appeals to the court to set aside the revocation, the foreign limited liability company shall attach to the petition copies of the:

- (1) secretary of state's certificate of revocation of the limited liability company's certificate of authority;**
- (2) foreign limited liability company's application for reinstatement; and**
- (3) secretary of state's notice of denial.**

~~(b)~~ **(c)** The court may order the secretary of state to reinstate the certificate of authority or may take other action the court considers appropriate.

~~(c)~~ **(d)** The court's final decision may be appealed as in other civil proceedings.

SECTION 41. IC 23-18-12-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1.1. **(a)** For purposes of this article, a document is delivered for filing if the document is transferred to the secretary of state by hand, mail, ~~teletype; facsimile;~~ or ~~other~~ a form of electronic transmission meeting the requirements established by the secretary of state.

(b) If a document is delivered for filing by hand or mail, the document must be accompanied by:



(1) two (2) exact or conformed copies of a document filed under IC 23-18-2-12 or IC 23-18-11-10; or

(2) one (1) exact or conformed copy of any other document filed under this article.

(c) The office of the secretary of state shall create any copies of a document delivered by telecopy, facsimile, or other form of electronic transmission that are required for distribution under this article.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 377 — Concur

