

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. _____

Business entities-revisions.

Sponsored by: Joint Corporations, Elections and Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to business entities; providing a penalty
2 for signing a false document; providing for forfeiture of
3 limited liability company articles of organization;
4 providing for administrative dissolution of corporations;
5 providing for a fee; providing for revocation of authority
6 for foreign corporations; providing for interim
7 classifications; and providing for an effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 17-27-102 is created to read:

12

13 **17-27-102. Penalty for signing false document.**

14

1 (a) A person commits an offense if he signs a
2 document he knows is false in any material respect with
3 intent that the document be delivered to the secretary of
4 state for filing.

5

6 (b) An offense under this section is a felony and
7 shall be punished by a fine not exceeding two thousand
8 dollars (\$2,000.00), or by imprisonment not exceeding one
9 (1) year, or both.

10

11 **Section 2.** W.S. 17-15-112 by creating new subsections
12 (c) and (d), 17-16-1420(a)(iv), by creating new paragraphs
13 (vi) and (vii) and by creating a new subsection (b),
14 17-16-1421(a) and (b), 17-16-1422(a)(iv) and by creating a
15 new paragraph (v), 17-16-1530(a) by creating a new
16 paragraph (vi) and by creating a new subsection (b) and
17 17-16-1531(a) and (b), 17-19-1420(a)(iv), by creating new
18 paragraphs (vi) and (vii) and by creating a new subsection
19 (b), 17-19-1421(a) and (b), 17-19-1422(a)(iv) and by
20 creating a new paragraph (v), 17-19-1530(a) by creating a
21 new paragraph (vi) and by creating a new subsection (b) and
22 17-19-1531(a) and (c) are amended to read:

23

1 **17-15-112. Administrative forfeiture of authority and**
2 **certificate of organization.**

3
4 (b) If any limited liability company has failed to
5 pay the tax required by W.S. 17-15-132(a)(vi) it shall be
6 deemed to be transacting business within this state without
7 authority and to have forfeited any franchises, rights or
8 privileges acquired under the laws thereof. The forfeiture
9 shall be made effective in the following manner. The
10 secretary of state shall provide notice to the limited
11 liability company at its last known mailing address by
12 first class mail. ~~and publish once a week for two (2)~~
13 ~~consecutive weeks in a newspaper of general circulation in~~
14 ~~the county in which the registered office of the company is~~
15 ~~located, notice that the company failed to comply with W.S.~~
16 ~~17-15-132(a)(vi).~~ Unless compliance is made within sixty
17 (60) days of the date of ~~the first publication,~~ notice the
18 limited liability company shall be deemed defunct and to
19 have forfeited its certificate of organization acquired
20 under the laws of this state. Provided, that any defunct
21 limited liability company may at any time within two (2)
22 years after the forfeiture of its certificate, be revived
23 and reinstated by paying double the amount of the
24 delinquent taxes. When the reinstatement is effective, it

1 relates back to and takes effect as of the effective date
2 deemed defunct pursuant to this subsection and the limited
3 liability company resumes carrying on its business as if it
4 had never been deemed defunct.

5
6 ***** Staff note: Corporations must pay a reinstatement**
7 **fee plus double the delinquent taxes. The committee has**
8 **not yet considered adding a fee for reinstatement of a**
9 **limited liability company in the preceding subsection. *****

10
11 (c) A limited liability company shall be deemed to be
12 transacting business within this state without authority,
13 to have forfeited any franchises, rights or privileges
14 acquired under the laws thereof and shall be deemed defunct
15 and to have forfeited its certificate of organization
16 acquired under the laws of this state, and the forfeiture
17 shall be made effective in the manner provided in
18 subsection (a) of this section, if:

19
20 (i) A member of the limited liability company
21 signed a document he knew was false in any material respect
22 with intent that the document be delivered to the secretary
23 of state for filing;

24
25 (ii) The limited liability company has failed to
26 respond to a subpoena; or

1

2

(iii) It is in the public interest and the limited liability company or any of its members:

4

5

(A) Failed to provide records to the registered agent as required in this act;

7

8

(B) Has provided fraudulent information or has failed to correct false information upon request of the secretary of state on any filing with the secretary of state under this act; or

12

13

(C) Cannot be served by either the secretary of state or the registered agent at its address provided pursuant to this act.

16

17

(d) The secretary of state may classify a limited liability company as delinquent awaiting forfeiture of its certificate of organization at the time the secretary of state mails the notice required under subsections (a) through (c) of this section to the limited liability company.

23

24

17-16-1420. Grounds for administrative dissolution.

1

2 (a) The secretary of state may commence a proceeding
3 under W.S. 17-16-1421 to administratively dissolve a
4 corporation if:

5

6 (iv) The corporation does not deliver its annual
7 reports or pay the annual license taxes to the secretary of
8 state when due pursuant to W.S. 17-16-1630; ~~or~~

9

10 (vi) An incorporator, director, officer or agent
11 of the corporation signed a document he knew was false in
12 any material respect with intent that the document be
13 delivered to the secretary of state for filing; or

14

15 (vii) The corporation has failed to respond to a
16 subpoena.

17

18 (b) Prior to commencing a proceeding under W.S. 17-
19 16-1421 the secretary of state may classify a corporation
20 as delinquent awaiting administrative dissolution if the
21 corporation meets any of the criteria in subsection (a) of
22 this section.

23

1 **17-16-1421. Procedure for and effect of**
2 **administrative dissolution.**

3
4 (a) If the secretary of state determines that one (1)
5 or more grounds exist under W.S. 17-16-1420 for dissolving
6 a corporation, he shall serve the corporation with written
7 notice of his determination under W.S. 17-16-504, except
8 for W.S. 17-16-1420(a)(iii) in which case dissolution is by
9 choice and therefore automatic. ~~and W.S. 17-16-1420(a)(iv)~~
10 ~~in which case notice of the proposed dissolution shall be~~
11 ~~given only as provided in subsection (c) of this section.~~

12
13 (b) If the corporation does not correct each ground
14 for dissolution or demonstrate to the reasonable
15 satisfaction of the secretary of state that each ground
16 determined by the secretary of state does not exist within
17 sixty (60) days after service of the notice is perfected
18 under W.S. 17-16-504, the secretary of state shall
19 administratively dissolve the corporation by signing,
20 either manually or in facsimile, a certificate of
21 dissolution that recites the ground or grounds for
22 dissolution and its effective date. The secretary of state
23 shall file the original of the certificate and serve a copy
24 on the corporation under W.S. 17-16-504. ~~The provisions of~~

1 ~~subsection (e) of this section shall govern the procedures~~
2 ~~for dissolution pursuant to W.S. 17-16-1420(a)(iv).~~

3
4 **17-16-1422. Reinstatement following administrative**
5 **dissolution.**

6
7 (a) A corporation administratively dissolved under
8 W.S. 17-16-1421 may apply to the secretary of state for
9 reinstatement within two (2) years after the effective date
10 of dissolution. Reinstatement may be denied by the
11 secretary of state if the corporation has been the subject
12 of secretary of state and law enforcement investigation
13 pertaining to fraud or any other violation of state or
14 federal law, or if there is other reason to believe the
15 corporation was engaged in illegal operations. The
16 application shall:

17
18 (iv) If the corporation was administratively
19 dissolved for failing to deliver its annual report or pay
20 the annual license taxes to the secretary of state when due
21 pursuant to W.S. 17-16-1630, include payment of a sum equal
22 to double the amount of fees and taxes then delinquent and
23 a reinstatement certificate fee prescribed pursuant to W.S.
24 17-16-122; and-

1

2

3

4

5

6

7

8

17-16-1530. Grounds for revocation.

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

(v) If the corporation was administratively dissolved for failure to maintain a registered agent, include payment of a two hundred fifty dollars (\$250.00) reinstatement fee and payment of a sum equal to double the amount of any fees and taxes then delinquent.

(a) The secretary of state may commence a proceeding under W.S. 17-16-1531 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

(iv) The corporation does not deliver its annual reports or pay the annual license taxes to the secretary of state when due pursuant to W.S. 17-16-1630; ~~or~~

(v) The corporation has failed to respond to a subpoena; or

~~(v)~~ (vi) It is in the public interest and the corporation:

1 (b) Prior to commencing a proceeding under W.S. 17-
2 16-1531 the secretary of state may classify a foreign
3 corporation as delinquent awaiting administrative
4 revocation if the foreign corporation meets any of the
5 criteria in subsection (a) of this section.

6
7 **17-16-1531. Procedure for and effect of revocation.**

8
9 (a) If the secretary of state determines that one (1)
10 or more grounds exist under W.S. 17-16-1530 for revocation
11 of a certificate of authority, he shall serve the foreign
12 corporation with written notice of his determination under
13 W.S. 17-16-1510., ~~except for revocation pursuant to W.S.~~
14 ~~17-16-1530(a)(iv) in which case notice of the proposed~~
15 ~~revocation shall be given only as provided in subsection~~
16 ~~(f) of this section.~~

17
18 (b) If the foreign corporation does not correct each
19 ground for revocation or demonstrate to the reasonable
20 satisfaction of the secretary of state that each ground
21 determined by the secretary of state does not exist within
22 sixty (60) days after service of the notice is perfected
23 under W.S. 17-16-1510, the secretary of state may revoke
24 the foreign corporation's certificate of authority by

1 signing, either manually or in facsimile, a certificate of
2 revocation that recites the ground or grounds for
3 revocation and its effective date. The secretary of state
4 shall file the original of the certificate and serve a copy
5 on the foreign corporation under W.S. 17-16-1510. ~~The~~
6 ~~provisions of subsection (f) of this section shall govern~~
7 ~~the procedures for revocation pursuant to W.S.~~
8 ~~17-16-1530(a)(iv).~~

9
10 **17-19-1420. Grounds for administrative dissolution.**

11
12 (a) The secretary of state may commence a proceeding
13 under W.S. 17-19-1421 to administratively dissolve a
14 corporation if:

15
16 (iv) The corporation does not deliver its annual
17 reports or pay the annual license taxes to the secretary of
18 state when due pursuant to W.S. 17-19-1630; ~~or~~

19
20 (vi) An incorporator, director, officer or agent
21 of the corporation signed a document he knew was false in
22 any material respect with intent that the document be
23 delivered to the secretary of state for filing; or

24

1 (vii) The corporation has failed to respond to a
2 subpoena.

3

4 (b) Prior to commencing a proceeding under 17-19-1421
5 the secretary of state may classify a corporation as
6 delinquent awaiting administrative dissolution if the
7 corporation meets any of the criteria in subsection (a) of
8 this section.

9

10 **17-19-1421. Procedure for and effect of**
11 **administrative dissolution.**

12

13 (a) Upon determining that one (1) or more grounds
14 exist under W.S. 17-19-1420 for dissolving a corporation,
15 the secretary of state shall serve the corporation with
16 written notice of that determination under W.S. 17-19-504.~~7~~
17 ~~except for dissolution pursuant to W.S. 17-19-1420(a)(iv)~~
18 ~~in which case notice of the proposed dissolution shall be~~
19 ~~given only as provided in subsection (c) of this section.~~

20 In the case of a public benefit corporation the secretary
21 of state shall also notify the attorney general in writing.

22

23 (b) If the corporation does not correct each ground
24 for dissolution or demonstrate to the reasonable

1 satisfaction of the secretary of state that each ground
2 determined by the secretary of state does not exist within
3 at least sixty (60) days after service of the notice is
4 perfected under W.S. 17-19-504, the secretary of state may
5 administratively dissolve the corporation by signing a
6 certificate of dissolution that recites the ground or
7 grounds for dissolution and its effective date. The
8 secretary of state shall file the original of the
9 certificate and serve a copy on the corporation under W.S.
10 17-19-504, and in the case of a public benefit corporation
11 shall notify the attorney general in writing. ~~The~~
12 ~~provisions of subsection (e) of this section shall govern~~
13 ~~the procedures for dissolution pursuant to W.S. 17-19-~~
14 ~~1420(a)(iv).~~

15

16 **17-19-1422. Reinstatement following administrative**
17 **dissolution.**

18

19 (a) A corporation administratively dissolved under
20 W.S. 17-19-1421 may apply to the secretary of state for
21 reinstatement within two (2) years after the effective date
22 of dissolution. Reinstatement may be denied by the
23 secretary of state if the corporation has been the subject
24 of secretary of state and law enforcement investigation

1 pertaining to fraud or any other violation of state or
2 federal law, or if there is other reason to believe the
3 corporation was engaged in illegal operations. The
4 application shall:

5

6 (iv) If the corporation was administratively
7 dissolved for failing to deliver its annual report or pay
8 the annual license taxes to the secretary of state when due
9 pursuant to W.S. 17-19-1630, include payment of a sum equal
10 to double the amount of fees and taxes then delinquent and
11 the reinstatement certificate fee prescribed by W.S. 17-19-
12 122; ~~and-~~

13

14 (v) If the corporation was administratively
15 dissolved for failure to maintain a registered agent,
16 include payment of a one hundred fifty dollars (\$150.00)
17 reinstatement fee and payment of a sum equal to double the
18 amount of any fees and taxes then delinquent.

19

20 ***** Staff note: The reinstatement fee is smaller for non-**
21 **profit corporations than for regular domestic corporations.**
22 **Note also that there is no reinstatement fee or process for**
23 **foreign corporations. *****

24

25 **17-19-1530. Grounds for revocation.**

26

1 (a) The secretary of state may commence a proceeding
2 under W.S. 17-19-1531 to revoke the certificate of
3 authority of a foreign corporation authorized to transact
4 business in this state if:

5
6 (iv) The secretary of state receives a duly
7 authenticated certificate from the secretary of state or
8 other official having custody of corporate records in the
9 state or country under whose law the foreign corporation is
10 incorporated stating that it has been dissolved or
11 disappeared as the result of a merger; ~~or~~

12
13 (v) The corporation does not deliver its annual
14 reports or pay the annual license taxes to the secretary of
15 state when due pursuant to W.S. 17-19-1630; ~~or~~

16
17 (vi) The corporation has failed to respond to a
18 subpoena; or

19
20 (vii) It is in the public interest and the
21 corporation:

22
23 (A) Has provided fraudulent information or
24 has failed to correct false information upon request of the

1 secretary of state on any filing with the secretary of
2 state under this act; or

3
4 (B) Cannot be served by either the
5 registered agent or by mail by the secretary of state
6 acting as the agent for process.

7
8 (c) Prior to commencing a proceeding under W.S. 17-
9 19-1531 the secretary of state may classify a foreign
10 corporation as delinquent awaiting administrative
11 revocation if the foreign corporation meets any of the
12 criteria in subsection (a) of this section.

13
14 **17-19-1531. Procedure and effect of revocation.**

15
16 (a) The secretary of state upon determining that one
17 (1) or more grounds exist under W.S. 17-19-1530 for
18 revocation of a certificate of authority shall serve the
19 foreign corporation with written notice of that
20 determination under W.S. 17-19-1510., ~~except for revocation~~
21 ~~pursuant to W.S. 17-19-1530(a)(v) in which case notice of~~
22 ~~the proposed revocation shall be given only as provided in~~
23 ~~subsection (g) of this section.~~

24

1 (c) If the foreign corporation does not correct each
2 ground for revocation or demonstrate to the reasonable
3 satisfaction of the secretary of state or attorney general
4 that each ground for revocation determined by the secretary
5 of state or attorney general does not exist within sixty
6 (60) days after service of the notice is perfected under
7 W.S. 17-19-1510, the secretary of state may revoke the
8 foreign corporation's certificate of authority by signing a
9 certificate of revocation that recites the ground or
10 grounds for revocation and its effective date. The
11 secretary of state shall file the original of the
12 certificate and serve a copy on the foreign corporation
13 under W.S. 17-19-1510. ~~The provisions of subsection (g) of~~
14 ~~this section shall govern the procedures for revocation~~
15 ~~pursuant to W.S. 17-19-1530(a)(v).~~

16

17 **Section 3.** W.S. 17-16-129, 17-16-1421(e),
18 17-16-1531(f), 17-19-1421(e) and 17-19-1531(g) are
19 repealed.

20

21 **Section 4.** This act is effective January 1, 2009.

22

23

(END)