

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1084
(Government and Veterans Affairs Committee)
(At the request of the Secretary of State)

AN ACT to amend and reenact section 10-06.1-14, subsection 1 of section 10-19.1-135, section 10-19.1-137, subsection 1 of section 10-19.1-140, subsection 2 of section 10-32.1-75, subsection 1 of section 10-32.1-77, subsection 1 of section 10-32.1-81, subsection 2 of section 10-33-128, section 10-33-130, and subsection 1 of section 10-33-133 of the North Dakota Century Code, relating to business filing requirements with the secretary of state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 10-06.1-14 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-14. Applicability of North Dakota limited liability company laws.

Chapter 10-32.1, ~~except those sections which pertain to foreign limited liability companies,~~ is applicable to farming or ranching limited liability companies, which have the powers and privileges and are subject to the duties, restrictions, and liabilities of other business limited liability companies, except when inconsistent with the intent of this chapter. This chapter takes precedence in the event of any conflict with the provisions of chapter 10-32.1.

SECTION 2. AMENDMENT. Subsection 1 of section 10-19.1-135 of the North Dakota Century Code is amended and reenacted as follows:

1. An applicant for a certificate shall file with the secretary of state an application executed by an authorized person on forms prescribed by the secretary of state and setting forth:
 - a. The name of the foreign corporation and, if different, the name under which it proposes to transact business in this state;
 - b. The jurisdiction of its incorporation;
 - c. The date of incorporation in the jurisdiction of its incorporation and the period of duration of the foreign corporation;
 - d. The address of the principal executive office of the foreign corporation;
 - e. The name of the registered agent of the foreign corporation as provided in chapter 10-01.1, and if a noncommercial registered agent, the address of such noncommercial registered agent in this state;
 - f. The purpose of the corporation which it proposes to pursue in transacting business in this state;
 - g. The names and addresses of the directors and officers of the foreign corporation; and
 - h. Any additional information deemed necessary or appropriate by the secretary of state to enable the secretary of state to determine whether the foreign corporation is entitled to a certificate of authority to transact business in this state.

SECTION 3. AMENDMENT. Section 10-19.1-137 of the North Dakota Century Code is amended and reenacted as follows:

10-19.1-137. Foreign corporation - Amendments to the certificate of authority.

If any statement in the application for a certificate of authority by a foreign corporation is false when made or the foreign corporation changes the foreign corporation's name or purposes sought in this state, the foreign corporation promptly shall file with the secretary of state an application for an amended certificate of authority executed by an authorized person on forms prescribed by the secretary of state correcting the statement and, in the case of a change in the foreign corporation's name, a certificate to that effect authenticated by the proper officer of the jurisdiction under the laws of which the foreign corporation is incorporated.

1. In the case of a dissolution, a foreign corporation need not file an application for an amended certificate of authority but shall promptly file with the secretary of state a certificate to that effect authenticated by the proper officer of the jurisdiction under the laws of which the foreign corporation is incorporated.
2. A foreign corporation that changes the foreign corporation's name and applies for an amended certificate of authority, and is the owner of a service mark, trademark, or trade name, is a general partner named in a fictitious name certificate, is a general partner in a limited partnership or limited liability limited partnership, or is a managing partner in a limited liability partnership that is on file with the secretary of state, shall change the foreign corporation's name in each of the foregoing registrations that is applicable when the foreign corporation files an application for an amended certificate of authority.

SECTION 4. AMENDMENT. Subsection 1 of section 10-19.1-140 of the North Dakota Century Code is amended and reenacted as follows:

1. A foreign corporation authorized to transact business in this state may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure the certificate, the foreign corporation shall file with the secretary of state an application for withdrawal, on forms prescribed by the secretary of state, together with the fees provided in section 10-19.1-147, which must set forth:
 - a. The name of the corporation and the state or country under the laws of which it is incorporated;
 - b. That the corporation is not transacting business in this state;
 - c. That the corporation surrenders its authority to transact business in this state;
 - d. That service of process in any action, suit, or proceeding based upon any cause of action arising in this state during the time the corporation was authorized to transact business in this state may thereafter be made on such corporation as provided in section 10-01.1-13;
 - e. A post-office address to which a person may mail a copy of any process against the corporation; and
 - f. Any additional information necessary or appropriate to enable the secretary of state to determine and assess any unpaid fees payable by the foreign corporation.

SECTION 5. AMENDMENT. Subsection 2 of section 10-32.1-75 of the North Dakota Century Code is amended and reenacted as follows:

2. The application must be on forms prescribed by the secretary of state and accompanied by payment of the fees provided in section 10-32.1-92 together with a certificate of good standing or a certificate of existence duly authenticated by the organizing officer of the state or country where the foreign limited liability company is organized.

SECTION 6. AMENDMENT. Subsection 1 of section 10-32.1-77 of the North Dakota Century Code is amended and reenacted as follows:

1. If any statement in the application for a certificate of authority by a foreign limited liability company is false when made or if the foreign limited liability company changes the name of the foreign limited liability company or purposes sought in this state, then the foreign limited liability company promptly shall file with the secretary of state an application for an amended certificate of authority executed by an authorized person on forms prescribed by the secretary of state correcting the statement and in the case of a change in the name of the foreign limited liability company, a certificate to that effect authenticated by the proper officer of the state or country under the laws of which the foreign limited liability company is organized.

SECTION 7. AMENDMENT. Subsection 1 of section 10-32.1-81 of the North Dakota Century Code is amended and reenacted as follows:

1. A foreign limited liability company authorized to transact business in this state may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure the certificate, the foreign limited liability company shall file with the secretary of state an application for withdrawal, on forms prescribed by the secretary of state, together with the fees provided in section 10-32.1-92, which must set forth:
 - a. The name of the foreign limited liability company and the state or country under the laws of which it is organized;
 - b. That the foreign limited liability company is not transacting business in this state;
 - c. That the foreign limited liability company surrenders its authority to transact business in this state;
 - d. That service of process in any action, suit, or proceeding based upon any cause of action arising in this state during the time the foreign limited liability company was authorized to transact business in this state may thereafter be made on such foreign limited liability company as provided in section 10-01.1-13; and
 - e. A mailing address to which a person may mail a copy of any process against the foreign limited liability company.

SECTION 8. AMENDMENT. Subsection 2 of section 10-33-128 of the North Dakota Century Code is amended and reenacted as follows:

2. The application must be on forms prescribed by the secretary of state and accompanied by payment of the fees provided in section 10-33-140 together with a certificate of good standing or a certificate of existence duly authenticated by the incorporating officer of the state or country where the corporation is incorporated.

SECTION 9. AMENDMENT. Section 10-33-130 of the North Dakota Century Code is amended and reenacted as follows:

10-33-130. Foreign corporation - Amendments to the certificate of authority.

If any statement in the application for a certificate of authority by a foreign corporation is false when made or any arrangements or other facts described change, making the application inaccurate in any respect, the foreign corporation shall promptly file with the secretary of state an application for an amended certificate of authority executed by an authorized person on forms prescribed by the secretary of state correcting the statement and, in the case of a change in the foreign corporation's name, a certificate to that effect authenticated by the proper officer of the jurisdiction under the laws of which the foreign corporation is incorporated. In the case of a dissolution or merger, a foreign corporation that is not the surviving organization need not file an application for an amended certificate of authority but shall promptly file with the secretary of state a certificate to that effect authenticated by the proper officer of the jurisdiction under the laws of which the foreign corporation is incorporated. A foreign nonprofit corporation that changes the foreign nonprofit corporation's name and applies for an amended

certificate of authority and that is the owner of a service mark, trademark, or trade name, a general partner named in a fictitious name certificate, a general partner in a limited partnership or a limited liability limited partnership, or a managing partner in a limited liability partnership that is on file with the secretary of state shall change the foreign nonprofit corporation's name in each of the foregoing registrations that apply if the foreign nonprofit corporation files an application for an amended certificate of authority.

SECTION 10. AMENDMENT. Subsection 1 of section 10-33-133 of the North Dakota Century Code is amended and reenacted as follows:

1. A foreign corporation authorized to conduct activities in this state may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure the certificate, the foreign corporation shall file with the secretary of state an application for withdrawal, on forms prescribed by the secretary of state, together with the fees provided in section 10-33-140, which must set forth:
 - a. The name of the corporation and the state or country under the laws of which it is incorporated;
 - b. That the corporation is not conducting activities in this state;
 - c. That the corporation surrenders its authority to conduct activities in this state;
 - d. That service of process in any action, suit, or proceeding based upon any cause of action arising in this state during the time the corporation was authorized to conduct activities in this state may thereafter be made on such corporation as provided in section 10-01.1-13; and
 - e. A post-office address to which a person may mail a copy of any process against the corporation.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1084.

House Vote: Yeas 93 Nays 0 Absent 1

Senate Vote: Yeas 45 Nays 0 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State