

## CHAPTER 13

### ANNUAL REPORTS: POWERS OF SECRETARY OF STATE; EXCUSE; MISCELLANEOUS

#### §1301. Annual report of domestic and foreign corporations; excuse

**1. Annual report.** Each domestic corporation, unless excused as provided in subsection 5, and each foreign corporation authorized to carry on activities in this State shall deliver for filing, within the time prescribed by this Act, an annual report to the Secretary of State setting forth:

A. The name of the domestic or foreign corporation and the jurisdiction of its incorporation; [PL 2007, c. 323, Pt. B, §27 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

B. The information required by Title 5, section 105, subsection 1; [PL 2007, c. 323, Pt. B, §27 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

C. The names and business or residence addresses, of the president, the treasurer, the registered agent, the secretary or clerk, and directors of the corporation, including the street or rural route number, town or city and state; [PL 2007, c. 323, Pt. B, §27 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

D. A brief statement of the character of the activities in which the domestic or foreign corporation is actually engaged in this State, if any; and [PL 2007, c. 323, Pt. B, §27 (NEW); PL 2007, c. 323, Pt. G, §4 (AFF).]

E. The address of its principal office, wherever located. [PL 2007, c. 323, Pt. B, §27 (NEW); PL 2007, c. 323, Pt. G, §4 (AFF).]

[PL 2007, c. 323, Pt. B, §27 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

**2. Information contained in annual report.** The Secretary of State shall specify by rule the period of time to which the annual report applies as provided in subsection 4. The information contained in the annual report must be current as of the date the report is signed.

[PL 1993, c. 680, Pt. A, §23 (RPR).]

#### **2-A. Information contained in annual report.**

[PL 1993, c. 680, Pt. A, §23 (RP).]

**3. Execution.** The annual report must be executed as provided by section 104, except that signing by the president, a vice-president, the secretary, the treasurer, an assistant secretary or any other duly authorized individual without a 2nd signature is deemed valid under section 104, subsection 1, paragraph B, subparagraph (2).

[PL 1993, c. 680, Pt. A, §23 (RPR).]

**4. Filing.** Subject to rules adopted under section 1302-A, subsection 4, the annual report must be delivered for filing to the Secretary of State or a designee. The annual reports may be delivered to the Secretary of State on a staggered basis as defined by the Secretary of State by rule in accordance with the Maine Administrative Procedure Act. The report must apply to the 12-month period specified by the Secretary of State. Proof to the satisfaction of the Secretary of State that the report was deposited in the United States mail in a sealed envelope, properly addressed and with postage prepaid, before the date that penalties become effective for late delivery of annual reports, as established by the Secretary of State by rule, is considered compliance with this subsection. One copy of the report, together with the filing fee required by this Act, must be delivered for filing to the Secretary of State, who shall file the report if the Secretary of State finds that it conforms to the requirements of this Act. If the Secretary of State finds that the report does not conform, the Secretary of State shall promptly mail or otherwise

return the report to the corporation for necessary corrections, in which event the penalties prescribed by this Act for failure to file the report within the time provided in this section do not apply if the report is corrected to conform to the requirements of this Act and returned to the Secretary of State within 30 days from the date on which it was mailed or otherwise returned to the corporation by the Secretary of State.

[PL 1993, c. 680, Pt. A, §23 (RPR).]

**5. Certificate of excuse.** The Secretary of State, upon application by a corporation and satisfactory proof that it has ceased to carry on activities, shall file a certificate of that fact and shall give a duplicate certificate to the corporation. The corporation is then excused from filing annual reports with the Secretary of State as long as the corporation carries on no activities. The name of a corporation remains in the Secretary of State's record of corporate names and is protected for a period of 5 years following the filing of the certificate under this subsection.

[PL 2007, c. 535, Pt. A, §2 (AMD); PL 2007, c. 535, Pt. A, §7 (AFF).]

**6. Vote to carry on activities.** The members entitled to vote or, if none, the directors of a corporation that has been excused pursuant to subsection 5 may vote to resume carrying on activities at a meeting duly called and held for that purpose. A certificate executed and filed as provided in sections 104 and 106, setting forth that a members' or directors' meeting was held, the date and location of the meeting and that a majority of the members or directors voted to resume carrying on activities, authorizes that corporation to carry on activities; after that certificate is filed, the corporation is required to file annual reports beginning with the next reporting deadline following resumption as established by subsection 4.

[PL 1993, c. 680, Pt. A, §23 (RPR).]

#### SECTION HISTORY

PL 1977, c. 525, §13 (NEW). PL 1977, c. 696, §161 (AMD). PL 1987, c. 402, §C4 (AMD). PL 1989, c. 501, §L43 (AMD). PL 1989, c. 875, §E11 (AMD). RR 1991, c. 2, §48 (COR). PL 1991, c. 465, §30 (AMD). PL 1991, c. 780, §U16 (AMD). PL 1991, c. 837, §A37 (AMD). PL 1993, c. 316, §44 (RPR). PL 1993, c. 349, §35 (RPR). PL 1993, c. 680, §A23 (RPR). PL 1995, c. 458, §10 (AMD). PL 1997, c. 376, §30 (AMD). PL 2007, c. 323, Pt. B, §27 (AMD). PL 2007, c. 323, Pt. G, §4 (AFF). PL 2007, c. 535, Pt. A, §2 (AMD). PL 2007, c. 535, Pt. A, §7 (AFF).

#### **§1301-A. Annual report of domestic condominium corporations; excuse**

**(REPEALED)**

#### SECTION HISTORY

PL 1989, c. 875, §E12 (NEW). PL 1991, c. 465, §31 (AMD). PL 1991, c. 780, §U17 (RP). PL 1991, c. 837, §A38 (RP).

#### **§1301-B. Failure to file annual report; incorrect report; penalties**

**(REPEALED)**

#### SECTION HISTORY

PL 1989, c. 875, §E12 (NEW). PL 1991, c. 780, §U18 (RP). PL 1991, c. 837, §A39 (RP).

#### **§1301-C. Amended annual report of domestic or foreign corporation**

**1. Amended annual report.** If the information contained in an annual report filed under section 1301 has changed, a corporation may, if it determines it to be necessary, deliver to the Secretary of State for filing an amended annual report to change the information on file. The amended annual report must be executed as provided by section 1301, subsection 3.

[PL 2003, c. 631, §6 (NEW).]

**2. Contents.** The amended annual report must set forth:

A. The name of the domestic or foreign corporation and the jurisdiction of its incorporation; [PL 2003, c. 631, §6 (NEW).]

B. The date on which the original annual report was filed; and [PL 2003, c. 631, §6 (NEW).]

C. The information that has changed and the date on which it changed. [PL 2003, c. 631, §6 (NEW).]

[PL 2003, c. 631, §6 (NEW).]

**3. Period for filing.** An amended annual report may be filed by the corporation after the date of the original filing and until December 31st of that filing year.

[PL 2003, c. 631, §6 (NEW).]

#### SECTION HISTORY

PL 2003, c. 631, §6 (NEW).

### §1302. Failure to file annual report; incorrect report; penalties

**1. Failure to file annual report; penalty.** A domestic or foreign corporation that is required to deliver an annual report for filing, as provided by section 1301, that fails to deliver its properly completed annual report to the Secretary of State shall pay, in addition to the regular annual report fee, the late filing penalty described in section 1401, subsection 34, as long as the report is received by the Secretary of State prior to administrative dissolution or revocation. Upon a corporation's failure to file the annual report and to pay the annual report fee or the penalty, the Secretary of State, notwithstanding Title 4, chapter 5 and Title 5, chapter 375, shall revoke a foreign corporation's authority to carry on activities in this State and administratively dissolve a domestic corporation. The Secretary of State shall use the procedures set forth in section 1113 to administratively dissolve a domestic corporation and the procedures set forth in section 1210-B to revoke a foreign corporation's authority to carry on activities in this State. A domestic corporation that has been administratively dissolved under section 1113 must follow the requirements set forth in section 1114 to reinstate.

[PL 2003, c. 631, §7 (AMD).]

**2. Nonconformity.** If the Secretary of State finds that an annual report of a domestic or foreign corporation delivered for filing does not conform with the requirements of section 1301, the Secretary of State may return the report for correction.

[PL 2003, c. 631, §7 (AMD).]

**3. Excusable neglect.** If the annual report of a domestic or foreign corporation is not delivered for filing within the time specified in section 1301, the corporation is excused from the liability provided in this section and from any other penalty for failure to timely file the report if it establishes, to the satisfaction of the Secretary of State, that its failure to file was the result of excusable neglect and it furnishes the Secretary of State a copy of the report within 30 days after it learns that the Secretary of State failed to receive the original report.

[PL 2003, c. 631, §7 (AMD).]

**4. Notice to Attorney General in case of public benefit corporation.**

[PL 2003, c. 631, §7 (RP).]

#### SECTION HISTORY

PL 1977, c. 525, §13 (NEW). PL 1977, c. 694, §290 (AMD). PL 1991, c. 780, §U19 (AMD). PL 1991, c. 837, §A40 (AMD). PL 1993, c. 349, §36 (RPR). PL 1999, c. 547, §B37 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2001, c. 550, §C27 (AMD). PL 2001, c. 550, §C29 (AFF). PL 2003, c. 631, §7 (AMD).

### §1302-A. Powers of Secretary of State

The Secretary of State shall have the power and authority reasonably necessary to enable him to administer this Act efficiently and to perform the duties therein imposed upon him. These powers shall include, without limitation: [PL 1977, c. 592, §17 (NEW).]

**1. Make rules.** The power to make rules not inconsistent with this Act; [PL 1977, c. 592, §17 (NEW).]

**2. Prescribe forms.** The power to prescribe forms for all documents required or permitted to be filed with him and to refuse to file documents not utilizing those forms to the extent possible; [PL 1987, c. 402, Pt. C, §5 (AMD).]

**3. Refuse to file.** The power to refuse to file any document which is not clearly legible or which may not be clearly reproducible photographically; and [PL 1987, c. 402, Pt. C, §5 (AMD).]

**4. Report dates.** The power, through the rule-making process, to provide alternative dates for filing annual reports and for determining the dates covered by those reports. [PL 1991, c. 780, Pt. U, §20 (AMD); PL 1991, c. 837, Pt. A, §41 (AMD).]

#### SECTION HISTORY

PL 1977, c. 592, §17 (NEW). PL 1987, c. 402, §§C5,C6 (AMD). PL 1989, c. 875, §E13 (AMD). PL 1991, c. 780, §U20 (AMD). PL 1991, c. 837, §A41 (AMD).

#### §1303. False and misleading statements in documents required to be filed with Secretary of State

**1. Penalties.** No person shall sign any document required or permitted to be delivered for filing with the Secretary of State by any corporation, domestic or foreign, when that person knows that the document contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained in the document, when considered in the light of the circumstances under which they were made, not misleading. Any violation of this subsection shall be a civil violation for which a forfeiture of not more than \$25 may be adjudged. [PL 1977, c. 525, §13 (NEW).]

**2. Liable.** Any person who violates subsection 1 shall be liable to any person who is damaged thereby. [PL 1977, c. 525, §13 (NEW).]

#### SECTION HISTORY

PL 1977, c. 525, §13 (NEW).

#### §1304. Certified copies of documents filed with Secretary of State to be received in evidence

All copies of documents which have been filed in the office of the Secretary of State, as required or permitted by any provision of this Act, shall, when certified by him, be taken and received in all courts, public offices and official bodies as prima facie evidence of the facts therein stated. A certificate by the Secretary of State under the seal of his office as to the nonexistence of a document in the files of his office shall be taken and received in all courts, public offices and official bodies as prima facie evidence of the nonexistence of such document. [PL 1977, c. 525, §13 (NEW).]

#### SECTION HISTORY

PL 1977, c. 525, §13 (NEW).

#### §1305. Certified records of corporation as prima facie evidence of facts stated therein

In addition to any rule of evidence provided by rule of court: [PL 1977, c. 525, §13 (NEW).]

**1. Prima facie evidence.** When certified under oath of the secretary or an assistant secretary of the corporation to be true and correct, the original or a copy of:

- A. The minutes of the proceedings of the incorporators; [PL 1977, c. 525, §13 (NEW).]
- B. The minutes of the meetings or other proceedings of the members or any class thereof; [RR 2013, c. 2, §22 (COR).]
- C. The minutes of the meetings or other proceedings of the directors or of any committee thereof; [PL 1977, c. 525, §13 (NEW).]
- D. Any written consent, waiver, release or agreement entered into the records of minutes; and [PL 1977, c. 525, §13 (NEW).]
- E. A statement that no specified meeting or proceeding was held, or that no specified consent, waiver, release or agreement exists; [PL 1977, c. 525, §13 (NEW).]

shall be prima facie evidence of the facts stated therein. Such certification may be by oral testimony or by affidavit, but after admitting such affidavit into evidence the court shall permit cross-examination of each affiant. A certification shall be sufficient if it is to the effect that a given document is the original, or a true, correct and complete copy, of minutes, consent, waiver or other document contained in the minute book of the corporation, even though the affiant has no personal knowledge of the facts set forth in such document; and the lack of personal knowledge of the certifying officers shall go to the weight, but not the admissibility, of such document as evidence. [RR 2013, c. 2, §22 (COR).]

**2. Meeting duly called.** Every meeting referred to in such certified original or copy shall be deemed duly called and held, and all motions and resolutions adopted and proceedings had at such meeting shall be deemed duly adopted and had, and all elections of directors and all elections or appointments of officers chosen at such meeting shall be deemed valid, until the contrary is proven. [PL 1977, c. 525, §13 (NEW).]

#### SECTION HISTORY

PL 1977, c. 525, §13 (NEW). RR 2013, c. 2, §22 (COR).

#### §1306. Short form certificate of change in corporate identity

**1. Secretary of State authorized to issue certificate.** The Secretary of State is authorized to issue his certificate in such short form as is adopted by him:

A. Of a change in the name of a domestic or foreign corporation, which change of name is reflected in articles of amendment which have been duly filed in his office. Such certificate shall state the new name of the corporation, its former name and such other information as the Secretary of State deems desirable; [PL 1977, c. 525, §13 (NEW).]

B. Of the consolidation or merger of 2 or more corporations, domestic or foreign or both, which merger or consolidation is reflected in articles of merger or consolidation which have been duly filed in his office. Such certificate shall state the name of the new or surviving corporation, the names of the corporations participating in the merger or consolidation and such other information as the Secretary of State deems desirable. [PL 1977, c. 525, §13 (NEW).]

[PL 1977, c. 525, §13 (NEW).]

**2. Certificate recorded in registry of deeds.** Any certificate issued pursuant to subsection 1 shall be accepted for recording, without acknowledgement, at any registry of deeds in the State. Such certificates shall be indexed and filed as are the items enumerated in Title 33, section 654. The register of deeds shall receive a fee equal to that chargeable for a deed for recording such a certificate. [PL 1977, c. 525, §13 (NEW).]

#### SECTION HISTORY

PL 1977, c. 525, §13 (NEW).

**§1307. Practicing profession or occupation**

Except as otherwise expressly provided by law, a nonprofit corporation shall not be required to obtain a license or to be registered to practice a profession or occupation. Any employee of such a corporation who practices or holds himself out to practice a profession or occupation shall be licensed or registered as required by law. [PL 1977, c. 525, §13 (NEW).]

**SECTION HISTORY**

PL 1977, c. 525, §13 (NEW).

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