

FINAL BILL REPORT

HB 2313

C 74 L 02

Synopsis as Enacted

Brief Description: Allowing electronic filing and registration for charities, corporations, and partnerships.

Sponsors: By Representatives Lantz, Anderson, Rockefeller, Kenney, Ogden, Upthegrove, Kagi, Dunn and Esser; by request of Secretary of State.

House Committee on Judiciary

Senate Committee on Labor, Commerce & Financial Institutions

Background:

The Secretary of State is responsible for receiving and maintaining a variety of documents, including a number of documents that various business entities are required to file. The Secretary of State may, for the purposes of the corporation filing statutes, have a filing system that uses microfilm, microfiche, or other methods of reduced-format document recording. The Secretary of State may eliminate any requirement for a duplicate original filing copy and may establish reasonable requirements for any reduced-format filing system.

The Nonprofit Corporation Act (NCA) and the Limited Liability Company Act (LLCA) require these entities to file a number of documents with the Secretary of State. Generally, duplicate originals of these documents must be submitted, and there are requirements that many of these documents be signed by specified persons.

The Charitable Solicitations Act (CSA) requires all charitable organizations and commercial fund raisers to register with the Secretary of State prior to conducting charitable solicitations and to register any contract for solicitations. These registrations must be submitted in the form prescribed by rule by the Secretary of State and must be signed by a specified officer of the entity. The Secretary of State may impose a late filing fee on a charitable organization or fund raiser that fails to register after notification by the Secretary of State.

In addition to registration requirements, the CSA places certain conditions and requirements on solicitations by charitable organizations and commercial fund raisers, including detailed disclosure requirements and prohibitions on certain kinds of representations. Any person who violates the CSA or who gives false or incorrect information in filing statements is guilty of a criminal offense.

The Attorney General may enforce the provisions of the CSA through a variety of means, including by imposition of a civil penalty of not more than \$1,000. A person who is assessed a civil penalty may request a hearing on the penalty to the Attorney General. The Attorney General may enforce a final and unappealable order for an assessment by court action.

Summary:

Amendments are made to the NCA, the LLCA, and the CSA to authorize or facilitate electronic filing with the Secretary of State. In addition, the CSA is amended to allow the Secretary of State to impose an assessment on any person who violates the CSA.

The Secretary of State's authority to use reduced-format filing systems is expanded to include electronic or online filing and is extended to any filing and registration statutes, not just corporation statutes. For an electronic or online filing system, the Secretary of State may establish reasonable requirements, such as signature technology, file format and type, and types of filing that may be completed electronically.

The NCA and the LLCA are amended to authorize the Secretary of State to adopt rules permitting electronic filing of documents. The rules will address when electronic filing of documents is permitted, how the documents will be filed and how the Secretary of State will return filed documents. In addition, the rules may impose additional requirements related to the electronic filing process. Unless the rules of the Secretary of State require otherwise, a document submitted for filing must be accompanied by an exact or conformed copy.

The NCA's requirements that a nonprofit corporation submit, and the Secretary of State return, duplicate originals of any documents that are required to be filed are removed. The Secretary of State must return an exact or conformed copy of these documents to the corporation.

The LLCA's extensive filing requirements are amended to authorize electronic filings in compliance with rules adopted by the Secretary of State as an alternative to paper filings.

The CSA is amended to facilitate an electronic filing system by defining "signed" to mean hand-written or in the manner specified by the Secretary of State in any rules adopted to facilitate electronic filing for charitable organizations.

The CSA is also amended to provide that the Secretary of State, rather than the Attorney General, is authorized to impose a civil penalty on an entity that violates a provision of the CSA.

Votes on Final Passage:

House 98 0
Senate 49 0

Effective: June 13, 2002