

1983 Assembly Bill 283

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1983 Wisconsin Act 475

AN ACT *to renumber and amend 181.74; and to create 181.56 (4), 181.651, 181.653, 181.68 (1) (gm) and 181.74 (1) of the statutes, relating to annual reports by and involuntary dissolution of nonstock corporations.*

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 181.56 (4) of the statutes is created to read:

181.56 (4) (a) If it is established by the records in the office of the secretary of state that a corporation failed to file its annual report as required by this chapter for the preceding 5 years, the secretary of state may dissolve the corporation involuntarily in the following manner:

1. The secretary of state shall give the corporation notice of its delinquency by 1st class mail addressed to its situs.

2. If the delinquent corporation is not restored to good standing as provided under s. 181.653 (4) within 90 days after the notice was mailed, the secretary of state shall issue a certificate of involuntary dissolution, which shall state the fact of involuntary dissolution, the date and cause of the dissolution and the dissolved corporation's situs.

3. The secretary of state shall file the original certificate of involuntary dissolution and mail a copy to the former corporation at its situs.

(b) Upon the issuance of the certificate of involuntary dissolution, the corporation shall cease to exist without any judicial proceedings and thereafter the dissolved corporation may not transact its ordinary business or exercise corporate powers except as provided under ss. 181.55, 181.555 and 181.65.

(c) The secretary of state shall rescind the dissolution of a corporation involuntarily dissolved under this subsection and issue a certificate stating the rescission if all of the following are met:

1. The corporation files with the secretary of state 2 affidavits, each executed by a different person who is a principal officer of the corporation, stating that the corporation did not receive the notice under par. (a) 1.

2. If the corporation was issued its certificate of incorporation after the effective date of this subdivision (1983), the corporation pays to the secretary of state \$50 in liquidated damages to cover the efforts of the secretary of state in rescinding the involuntary dissolution.

3. The corporation adopts, files and records an amendment to its articles of incorporation changing its name to a name available for use in this state, if the secretary of state finds that the name of the corporation seeking rescision of its involuntary dissolution is the same as or deceptively similar to the name of another corporation as prohibited by s. 181.06 (3).

(d) In this subsection and in s. 181.555, "situs" means a corporation or former corporation's last-known principal office as shown by the most recently filed annual report, or if none, the address of its registered agent, or if none, the last-known address of any known director or incorporator.

SECTION 2. 181.651 of the statutes is created to read:

181.651 Annual report of domestic corporation. (1) Each corporation shall file, within the time prescribed by this chapter, an annual report setting forth:

(a) The name of the corporation, the address, including street and number, if any, of its principal office.

(b) The names and respective addresses, including street and number, if any, of its directors and principal officers.

(c) A statement whether the corporation was engaged in actual activity during the 12 months immediately preceding the date of the report and the general nature of the activity.

(2) The annual report shall be made on forms prescribed and furnished by the secretary of state, and the information contained in the report shall be given as of the date of the execution of the report. It shall be executed by the corporation by its president, a vice president, secretary, assistant secretary, or treasurer, or, until the first election of officers, by one of its incorporators, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation by such receiver or trustee.

(3) The secretary of state shall forward a report form to every corporation in good standing not later than 60 days prior to the date on which the corporation is required by this chapter to file an annual report. The form shall list the information from the previous annual report submitted by the corporation and request the corporation to make the necessary changes to update the report.

SECTION 3. 181.653 of the statutes is created to read:

181.653 Filing of annual report of domestic corporation. (1) The annual report shall be delivered to the secretary of state in each year following the year in which the corporation's articles of incorporation are filed by the secretary of state, during the calendar year quarter in which the anniversary date of filing occurs. Unless the secretary of state finds that the report fails to conform to the requirements of law, the secretary of state shall file the same. If the secretary of state finds that it does not so conform the secretary of state shall return the same to the corporation for any necessary corrections, in which event the late fee prescribed in this section for failure to file such report within the time provided does not apply, if the report is corrected to conform to the requirements of this chapter and returned to the secretary of state within 30 days after it was mailed to the corporation for correction.

(2) Any such report not filed as required by sub. (1) may be filed only upon payment to the secretary of state of the filing fee plus a late fee of \$11.

(3) If the report is not filed during the calendar year quarter as required by sub. (1), the corporation shall not be in good standing. Within the next 6 months the secretary of state shall mail to the corporation a notice that it is no longer in good standing. Until the corporation is restored to good standing the secretary of state shall not accept for filing any documents respecting such corporation except documents incident to its dissolution.

(4) The corporation may be restored to good standing by delivering to the secretary of state a current annual report conforming to the requirements of law and by paying to the secretary of state the \$11 late filing fee plus \$5 for each calendar year or part of a calendar year during which the corporation has not been in good standing, not exceeding a total of \$51.

SECTION 4. 181.68 (1) (gm) of the statutes is created to read:

181.68 (1) (gm) Filing an annual report of a domestic corporation, \$5;

SECTION 5. 181.74 of the statutes is renumbered 181.74 (2) and amended to read:

181.74 (2) The secretary of state may provide such forms for other documents to be filed in his office under this chapter as in his judgment may be deemed necessary for such purpose but the use thereof, unless otherwise specifically prescribed in this chapter, shall not be mandatory.

SECTION 6. 181.74 (1) of the statutes is created to read:

181.74 (1) All reports required by this chapter to be filed in the office of the secretary of state shall be made on forms prescribed and furnished by the secretary of state.

SECTION 7. **Transitional provisions.** (1) Notwithstanding section 181.651 (3) of the statutes, as created by this act, the secretary of state shall, within 6 months after the effective date of this act, forward the form required under section 181.651 (2) of the statutes, as created by this act, to each corporation organized under chapter 181 of the statutes and shown by the records of the office of the secretary of state to be an active corporation and to have a designated registered agent. A form forwarded under this subsection shall be used for filing the report required under section 181.651 (1) of the statutes, as created by this act, and due the calendar year following the calendar year in which the report is forwarded.

(2) (a) Within 6 months after the effective date of this act, the secretary of state shall prepare, for each county, a list of all existing corporations organized under or subject to chapter 181 of the statutes, and having a situs in the county, and which have never designated a registered agent or which have failed to replace a resigned agent and shall cause each list, together with a statement that the secretary of state shall involuntarily dissolve without further notice any corporation on the list failing properly to designate a registered agent within 90 days, to be published as a class 1 notice under chapter 985 of the statutes in the county.

(b) The secretary of state shall issue and file a certificate of involuntary dissolution, stating the fact of involuntary dissolution and cause of the dissolution, for each corporation on the list under paragraph (a) failing properly to designate a registered agent within 90 days after publication of the notice under paragraph (a).

(c) On the issuance and filing of the certificate of involuntary dissolution under paragraph (b), the corporation shall cease to exist without any judicial proceedings and thereafter the dissolved corporation may not transact its ordinary business or exercise corporate powers except as provided under sections 181.55, 181.555 and 181.65 of the statutes.

(d) If a corporation is involuntarily dissolved under this SECTION and thereafter conducts its business and affairs in substantial compliance with its articles of incorporation in effect immediately before the corporation was dissolved under this SECTION, the members of the corporation are not personally liable for any action taken or any nonaction involving the dissolved corporation beyond that for which they would have been person-

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ally liable if the corporation was not dissolved under this SECTION and no person loses an income tax deduction based on Wisconsin statute for a donation to the corporation.

SECTION 8. **Effective date.** This act takes effect on January 1, 1985.
