



## 1995 ASSEMBLY BILL 1096

May 1, 1996 - Introduced by COMMITTEE ON ASSEMBLY ORGANIZATION. Referred to Committee on Rules.

1     **AN ACT to amend** 19.01 (4) (a), 132.01 (9), 137.01 (1) (b), 180.1006 (5), 180.1422  
2           (1) (b) and (c), 180.1422 (2) (a) (intro.) and 2. and (b), 180.1503 (2), 181.67 (1)  
3           (a), 183.0104 (1) and 185.82 (1) (a); **to repeal and recreate** 180.1422 (2) (a)  
4           (intro.) and 2. and (b), 181.67 (1) (a), 183.0104 (1) and 185.82 (1) (a); and **to**  
5           **create** 19.01 (4) (am) and (an) and 181.39 (1m) of the statutes; **relating to:**  
6           filing of oaths of members and officers of the assembly and senate, trademark  
7           assignments, ineligibility to serve as a notary, articles of amendment for  
8           statutory close corporations, reinstatement of corporations following  
9           administrative dissolution, including the date of incorporation in certificates of  
10          status for foreign corporations, information filed with restated articles of  
11          incorporation, including the name of the drafter on documents filed with the  
12          secretary of state and the time period within which payment must be received  
13          for reservation of name of a limited liability company.

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### ***Analysis by the Legislative Reference Bureau***

This bill makes a number of changes relating to the responsibilities of the secretary of state's office and, after July 1, 1996, to the duties of the department of financial institutions (DFI). Under 1995 Wisconsin Act 27 (the budget act), many of the functions of the secretary of state's office are transferred to DFI. The changes made by the bill include the following:

1. Under current law, the oaths of office of members and officers of the legislature must be filed with the office of the secretary of state. Under the bill, instead of filing with the secretary of state's office, the oaths of representatives and assembly officers must be filed with the office of the assembly chief clerk, and the oaths of the senators and senate officers must be filed with the office of the senate chief clerk.

2. Under current law, a person may register a trademark with the office of the secretary of state, if certain requirements are met. This bill provides that a successor to a title to a registered trademark must meet these same requirements.

3. Current law requires the secretary of state to satisfy himself or herself that an applicant for notary public meets certain criteria, including, subject to certain employment discrimination restrictions, whether the applicant has an arrest or conviction record. This bill modifies this provision so that the secretary of state is required to determine that the applicant does not have a record of an arrest or conviction that is substantially related to a notary's duties. The secretary of state may consider the elements and circumstances of an arrest or conviction record in making this determination.

4. Current law requires that an amendment to the articles of incorporation of a corporation be accompanied by a statement that the amendment was adopted in accordance with certain procedures. This bill amends this provision to cover amendments to the articles of incorporation of a statutory close corporation without a board of directors where the amendments were approved by the corporation's shareholders.

5. Current law contains provisions requiring the secretary of state to prepare a certificate of reinstatement if certain criteria are met, including the payment of fees and penalties owed to the secretary of state. In addition to certain other minor changes, the bill requires that the secretary of state issue this certificate, rather than merely prepare it.

6. Under current law, a foreign corporation's application for a certificate of authority to transact business in this state must include a certificate of status from the state or country where the foreign corporation is incorporated. This bill requires that this certificate also include the date that the foreign corporation was incorporated.

7. Under current law, articles of amendment for a nonstock corporation must set forth certain information, such as the name of the corporation, the text of the amendment, the date on which the amendment was adopted, etc. This bill provides that if a nonstock corporation restates its articles of incorporation and this restatement contains an amendment to the articles of incorporation, the corporation must include this same information with the restated articles of incorporation.

8. This bill changes from 10 business days to 15 business days the time period within which the secretary of state must receive the fees required for reservation of the name of a limited liability company or the renewal of a reserved name.

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

1           **SECTION 1.** 19.01 (4) (a) of the statutes is amended to read:

2           19.01 (4) (a) In the office of the secretary of state: Of ~~all members and officers~~  
3 of the legislature; of the governor, lieutenant governor and state superintendent; of  
4 the justices, reporter and clerk of the supreme court; of the judges of the court of  
5 appeals; of the judges and reporters of the circuit courts; of all notaries public; of  
6 every officer, except the secretary of state, state treasurer, district attorney and  
7 attorney general, whose compensation is paid in whole or in part out of the state  
8 treasury, including every member or appointee of a board or commission whose  
9 compensation is so paid; and of every deputy or assistant of an officer who files with  
10 the secretary of state;

11           **SECTION 2.** 19.01 (4) (am) and (an) of the statutes are created to read:

12           19.01 (4) (am) In the office of the chief clerk of the assembly: Of all members  
13 and officers of the assembly;

14           (an) In the office of the chief clerk of the senate: Of all members and officers of  
15 the senate;

16           **SECTION 3.** 132.01 (9) of the statutes is amended to read:

17           132.01 (9) Title to any registration hereunder shall pass to any person, firm or  
18 corporation succeeding to the registrant's business to which such registration  
19 pertains. Written assignments of any such registration from a registrant to such a  
20 successor who meets the requirements of sub. (1) may be filed with and shall be

1 recorded by the secretary of state upon payment of the fee specified in sub. (3). When  
2 such assignment is recorded, a new registration shall be entered in the name of the  
3 assignee, and on such registration and any subsequent certificates or registration of  
4 an assigned registration the secretary of state shall show the previous ownership  
5 and dates of assignment thereof.

6 **SECTION 4.** 137.01 (1) (b) of the statutes is amended to read:

7 137.01 (1) (b) The secretary of state shall satisfy himself or herself that the  
8 applicant has the equivalent of an 8th grade education, is familiar with the duties  
9 and responsibilities of a notary public and, subject to ss. 111.321, 111.322 and  
10 111.335, does not have an arrest or conviction record that is substantially or directly  
11 related to a notary's duties. The secretary of state may consider the elements and  
12 circumstances of an arrest or conviction record in determining if it is substantially  
13 or directly related to a notary's duties.

14 **SECTION 5.** 180.1006 (5) of the statutes is amended to read:

15 180.1006 (5) A statement that the amendment was adopted in accordance with  
16 s. 180.1002, 180.1003 or 180.1005, whichever is the case, or a statement that the  
17 corporation is a statutory close corporation without a board of directors and that the  
18 amendment was duly approved by the shareholders.

19 **SECTION 6.** 180.1422 (1) (b) and (c) of the statutes are amended to read:

20 180.1422 (1) (b) ~~That~~ A statement that each ground for dissolution either did  
21 not exist or has been eliminated.

22 (c) ~~That~~ A statement that the corporation's name satisfies s. 180.0401.

23 **SECTION 7.** 180.1422 (2) (a) (intro.) and 2. and (b) of the statutes are amended  
24 to read:

1           180.1422 (2) (a) (intro.) The secretary of state shall cancel the certificate of  
2 dissolution and ~~prepare~~ issue a certificate of reinstatement that complies with par.  
3 (b) if the secretary of state determines all of the following:

4           2. That all fees and penalties owed by the corporation to the secretary of state  
5 under this chapter have been paid.

6           (b) The certificate of reinstatement shall state the secretary of state's  
7 determination under par. (a) and the effective date of reinstatement. The secretary  
8 of state shall file ~~the original of~~ the certificate and ~~return~~ mail a copy to the  
9 corporation or its representative.

10           **SECTION 8.** 180.1422 (2) (a) (intro.) and 2. and (b) of the statutes, as affected by  
11 1995 Wisconsin Acts 27 and .... (this act), are repealed and recreated to read:

12           180.1422 (2) (a) (intro.) The department shall cancel the certificate of  
13 dissolution and issue a certificate of reinstatement that complies with par. (b) if the  
14 department determines all of the following:

15           2. That all fees and penalties owed by the corporation to the department under  
16 this chapter have been paid.

17           (b) The certificate of reinstatement shall state the department's determination  
18 under par. (a) and the effective date of reinstatement. The department shall file the  
19 certificate and mail a copy to the corporation or its representative.

20           **SECTION 9.** 180.1503 (2) of the statutes is amended to read:

21           180.1503 (2) The foreign corporation shall deliver with the completed  
22 application a certificate of status, or similar document, duly authenticated by the  
23 secretary of state or other official having custody of corporate records in the state or  
24 country under whose law it is incorporated. The certificate shall be dated no earlier

1 than 60 days before its delivery and shall include the date of incorporation of the  
2 foreign corporation.

3 **SECTION 10.** 181.39 (1m) of the statutes is created to read:

4 181.39 (1m) If restated articles of incorporation amend the articles of  
5 incorporation, the corporation shall include a certificate setting forth all of the  
6 following:

7 (a) A statement that the restated articles amend the articles of incorporation.

8 (b) The information required by s. 181.37 (1) to (6).

9 **SECTION 11.** 181.67 (1) (a) of the statutes is amended to read:

10 181.67 (1) (a) Separate originals of the document for the secretary of state and  
11 for the register of deeds of each county in which the document is required to be  
12 recorded. The document shall contain the name of the drafter if required by s. 14.38  
13 (14).

14 **SECTION 12.** 181.67 (1) (a) of the statutes, as affected by 1995 Wisconsin Acts  
15 27 and .... (this act), is repealed and recreated to read:

16 181.67 (1) (a) Separate originals of the document for the department and for  
17 the register of deeds of each county in which the document is required to be recorded.  
18 The document shall contain the name of the drafter if required by s. 14.38 (14).

19 **SECTION 13.** 183.0104 (1) of the statutes is amended to read:

20 183.0104 (1) A person may reserve the exclusive use of a limited liability  
21 company name, including a fictitious name for a foreign limited liability company  
22 whose name is not available, by delivering an application to the secretary of state for  
23 filing or by making a telephone application. The application shall include the  
24 applicant's name and address and the name proposed to be reserved. If the secretary  
25 of state finds that the name applied for under this subsection is available, the

1 secretary of state shall reserve the name for the applicant's exclusive use for a  
2 120-day period, which may be renewed by the applicant or a transferee under sub.  
3 (2) from time to time. If an application to reserve a name or to renew a reserved name  
4 is made by telephone, the secretary of state shall cancel the reservation or renewal  
5 if the secretary of state does not receive the fee required under s. 183.0114 (1) (e) or  
6 (f) within ~~10~~ 15 business days after the day on which the application is made.

7 **SECTION 14.** 183.0104 (1) of the statutes, as affected by 1995 Wisconsin Acts  
8 27 and .... (this act), is repealed and recreated to read:

9 183.0104 (1) A person may reserve the exclusive use of a limited liability  
10 company name, including a fictitious name for a foreign limited liability company  
11 whose name is not available, by delivering an application to the department for filing  
12 or by making a telephone application. The application shall include the applicant's  
13 name and address and the name proposed to be reserved. If the department finds  
14 that the name applied for under this subsection is available, the department shall  
15 reserve the name for the applicant's exclusive use for a 120-day period, which may  
16 be renewed by the applicant or a transferee under sub. (2) from time to time. If an  
17 application to reserve a name or to renew a reserved name is made by telephone, the  
18 department shall cancel the reservation or renewal if the department does not  
19 receive the fee required under s. 183.0114 (1) (e) or (f) within 15 business days after  
20 the day on which the application is made.

21 **SECTION 15.** 185.82 (1) (a) of the statutes is amended to read:

22 185.82 (1) (a) Separate originals of the document for the secretary of state and  
23 for the register of deeds of each county in which the document is required to be  
24 recorded. The document shall contain the name of the drafter if required by s. 14.38  
25 (14).

