

1993 Senate Bill 563

Date of enactment: **April 6, 1994**  
Date of publication\*: **April 20, 1994**

## 1993 WISCONSIN ACT 214

AN ACT *to amend* 14.38 (9), 179.03 (2), 179.16 (5), 180.0122 (4), 180.0402 (1), 180.1422 (2) (b), 180.1503 (2), 180.1504 (1) (a), 180.1504 (2), 180.1530 (1) (intro.), 180.1921 (2), 181.07 (2), 227.20 (2) and 779.97 (4) (d); and *to create* 180.1530 (1m) of the statutes, **relating to**: revocation of certificates of authority; service corporation annual reports; reinstatement following administrative dissolution; expedited service fees; federal tax lien notices; copies of administrative rules held by the secretary of state; certificate of authority applications; foreign corporation fictitious names on amended certificates of authority; and reserved names (suggested as remedial legislation by the secretary of state).

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the secretary of state and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of this bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

**SECTION 1.** 14.38 (9) of the statutes is amended to read:

14.38 (9) (title) FURNISH CERTIFIED COPIES; FEES. Make a copy of any law, resolution, deed, bond, record, document or paper deposited or kept in his or her office, upon request therefor, attach thereto his or her certificate, with the greater or lesser seal affixed, and collect therefor 50 cents per page and \$5 for such certificate; if a copy is not to be certified and if the reproduction is performed by the office of the secretary of state, then collect a fee to cover the actual and necessary cost of reproduction and actual and necessary cost of transcription required to produce the copy or \$2, whichever is greater; also to record any document authorized or required by law to be recorded in his or her office, and to charge therefor a fee of \$1 per page. The fee for certified copies of appointments, certificates of incorporations or amendments, licenses of foreign corporations, or similar certificates,

and for certificates as to results of search of the records and files of his or her office, when a printed form is used, shall be \$5, but when a specially prepared form is required the fee shall be \$10. Telegraphic reports as to results of record searches shall be \$5 plus the cost of the telegram. The secretary of state shall charge and collect for preparing any record or certificate under this subsection in an expeditious manner, an expedited service fee of \$25 in addition to the fee otherwise required under this subsection, except that only one expedited service fee may be charged for multiple identical corporation or limited partnership certificates of status if the certificates of status are requested at the same time and issued at the same time.

NOTE: This SECTION prohibits the secretary of state from charging more than one \$25 expedited service fee for multiple identical corporation or limited partnership certificates of status, if the certificates are requested and issued at one time.

**SECTION 2.** 179.03 (2) of the statutes is amended to read:

179.03 (2) The reservation shall be made by filing with the secretary of state an application executed by the applicant to reserve a specified name together with a fee of \$10, or making a telephone application to reserve a specified name. The fee for a telephone application to reserve a specified name for 60 days is \$20. If the secretary of state finds that the name is available for use by a

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domestic limited partnership or foreign limited partnership, ~~he or she~~ the secretary of state shall reserve the name for the exclusive use of the applicant for a period of 60 days. The secretary of state shall cancel the telephone application to reserve a specified name if the secretary of state does not receive the proper fee within ~~40~~ 15 business days after the application. Once having reserved a name, the same applicant may not again reserve the same name until more than 60 days after the expiration of the last 60-day period for which that applicant reserved that name. The right to the exclusive use of a reserved name may be transferred to any other person by filing in the office of the secretary of state, together with a fee of \$10, a notice of the transfer executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.

NOTE: This SECTION extends the application fee payment period from 10 to 15 days for a person to reserve a specified limited partnership name by a telephone application to accommodate regular office payment practices.

**SECTION 3.** 179.16 (5) of the statutes is amended to read:

179.16(5) The secretary of state shall charge and collect, for processing a document required or permitted to be filed under this chapter in an expeditious manner, or preparing the information under sub. (4) in an expeditious manner, ~~\$25 the expedited service fee under s. 14.38 (9)~~ in addition to the fee required by other provisions of this chapter.

NOTE: See the NOTE following the treatment of s. 14.38 (9).

**SECTION 4.** 180.0122 (4) of the statutes is amended to read:

180.0122 (4) In addition to the fees required under sub. (1), the secretary of state shall collect ~~\$25 the expedited service fee under s. 14.38 (9)~~ for processing in an expeditious manner a document required or permitted to be filed under this chapter or for preparing in an expeditious manner a certificate of status under s. 180.0128 (1) to (3) or a statement of status under s. 180.0128 (4).

NOTE: See the NOTE following the treatment of s. 14.38 (9).

**SECTION 5.** 180.0402 (1) of the statutes is amended to read:

180.0402 (1) A person may reserve the exclusive use of a corporate name, including a fictitious name for a foreign corporation whose corporate name is not available, by delivering an application to the secretary of state for filing or by making a telephone application. The application shall include the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the corporate name applied for under this subsection is available, ~~he or she~~ the secretary of state shall reserve the name for the applicant's exclusive use for a 120-day period, which may be renewed by the applicant or a transferee under sub. (2) from time to time. If an application to reserve a name or to renew a reserved

name is made by telephone, the secretary of state shall cancel the reservation or renewal if the secretary of state does not receive the fee required under s. 180.0122 (1) (e) or (f) within ~~40~~ 15 business days after the application is made.

NOTE: This SECTION extends the application fee payment period from 10 to 15 days for a person to reserve a specified corporation name by a telephone application to accommodate regular office payment practices.

**SECTION 6.** 180.1422 (2) (b) of the statutes is amended to read:

180.1422 (2) (b) The certificate of reinstatement shall state the secretary of state's determination under par. (a) and the effective date of reinstatement. The secretary of state shall file the original of the certificate and ~~serve return~~ a copy on to the corporation ~~under s. 180.0504 or its representative.~~

NOTE: This SECTION permits the secretary of state to mail a certificate of reinstatement to a corporation or its representative rather than use a formal means of service by registered or certified mail, return receipt requested, in response to a reinstatement request.

**SECTION 7.** 180.1503 (2) of the statutes is amended to read:

180.1503 (2) The foreign corporation shall deliver with the completed application a certificate of status, or similar document, duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law it is incorporated. The certificate shall be dated no earlier than ~~30~~ 60 days before its delivery.

NOTE: This SECTION extends the date by which a certificate of status must be validated to within 60 days, rather than to within 30 days, of the delivery of an application for a certificate of authority by the foreign corporation to minimize the likelihood of having the application accompanied by an over-age certificate of status at the conclusion of the licensing process. These certificates are prepared by the state or country where a foreign corporation is incorporated.

**SECTION 8.** 180.1504 (1) (a) of the statutes is amended to read:

180.1504 (1) (a) Its corporate name or the fictitious name under which it has been issued a certificate of authority.

NOTE: This SECTION requires a foreign corporation to amend its certificate of authority if it changes the fictitious name under which it operates in this state to permit ready identification of the name used by the corporation in this state. A fictitious name for a foreign corporation is authorized if, at the time of its licensing, its corporate name is not available in this state because the name is already in use by some other organization. Current law only requires an amendment for a change in the corporate name, not in the fictitious name.

**SECTION 9.** 180.1504 (2) of the statutes is amended to read:

180.1504 (2) The requirements of s. 180.1503 (1) (a) to (h) and (2) for obtaining an original certificate of authority apply to obtaining an amended certificate under this section except that a foreign corporation is not

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required to deliver a certificate of status with an application solely to change a fictitious name.

NOTE: This SECTION permits a foreign corporation to apply for a change in its fictitious name without submitting a new certificate of status from its home state or country.

**SECTION 10.** 180.1530 (1) (intro.) of the statutes is amended to read:

180.1530 (1) (intro.) ~~The~~ Except as provided in sub. (1m), the secretary of state may bring a proceeding under s. 180.1531 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if any of the following applies:

NOTE: See the NOTE following the treatment of s. 180.1530 (1m).

**SECTION 11.** 180.1530 (1m) of the statutes is created to read:

180.1530 (1m) If the secretary of state receives a certificate under sub. (1) (f) and a statement by the foreign corporation that the certificate is submitted by the foreign corporation to terminate its authority to transact business in this state, the secretary of state shall issue a certificate of revocation under s. 180.1531 (2) (b).

NOTE: This SECTION provides an abbreviated, summary procedure for the revocation of a certificate of authority of a foreign corporation if the latter submits documents to the secretary of state for the purpose of terminating its authority to transact business in the state. The SECTION eliminates the necessity for a notice by the secretary of the grounds for a revocation and the 60-day waiting period for the foreign corporation to cure the grounds for termination before issuance of a certificate of revocation.

**SECTION 12.** 180.1921 (2) of the statutes is amended to read:

180.1921 (2) The report shall show the address of this service corporation's principal office and the name and post-office address of each shareholder, director and officer of the service corporation and shall certify that, with the exceptions permitted in s. 180.1913, each shareholder, director and officer is duly licensed, certified, registered or otherwise legally authorized to render the same professional or other personal service in this state. The service corporation shall prepare the report on forms prescribed and furnished by the secretary of state, and the report shall contain no fiscal or other information except that expressly called for by this section. The secretary of state shall forward report blanks by 1st class mail to every service corporation in good standing, at least 60 days before the date on which the service corporation is required by this section to file an annual report.

NOTE: This SECTION requires a service corporation to include the address of its principal office in an annual report, in addition to information already required about each shareholder, officer and director. The SECTION conforms the law related to annual reports for service corporations to that required for domestic and foreign corporations and domestic nonstock, nonprofit corporations.

**SECTION 13.** 181.07 (2) of the statutes is amended to read:

181.07 (2) The reservation shall be made by filing with the secretary of state an application to reserve a specified corporate name, executed by the applicant or making a telephone application to reserve a specified corporate name. If the secretary of state finds that the name is available for corporate use, ~~he or she~~ the secretary of state shall reserve the same for the exclusive use of the applicant for a period of 60 days. The secretary of state shall cancel the telephone application to reserve a specified corporate name if the secretary of state does not receive the proper fee within ~~40~~ 15 business days after the application.

NOTE: This SECTION extends the application fee payment period from 10 to 15 days for a person to reserve a specified nonstock, nonprofit corporation name by a telephone application to accommodate regular office payment practices.

**SECTION 14.** 227.20 (2) of the statutes is amended to read:

227.20 (2) The secretary of state shall endorse the date and the time of filing on each certified copy filed under sub. (1). The secretary of state shall keep a ~~permanent~~ file of all certified copies filed under sub. (1).

NOTE: This SECTION changes the secretary of state's duty to keep a "permanent" file of a certified copy of each administrative rule promulgated by an agency to a duty merely to keep a file. The revision allows the secretary of state or the department of administration's public records and forms board the flexibility to determine periods of retention, or times for disposition, of certified copies of administrative rules records and the ability to comply with state guidelines for cost-effective records management and paperwork reduction.

**SECTION 15.** 779.97 (4) (d) of the statutes is amended to read:

779.97 (4) (d) Unless a refiling of a notice of lien is presented to a filing officer for filing within ~~7~~ 11 years and 60 days after the date on which a notice of lien or the latest refiling of a notice of that lien is filed with that officer, the filing officer may remove the notice of federal lien and any related refiling of a notice of lien, certificate of nonattachment, discharge or subordination from the files. Any refiling of a notice of lien presented to a filing officer after such removal shall be marked, held and indexed as though the document were a notice of federal lien instead of a refiling of a notice of lien.

NOTE: This SECTION conforms state law relating to the refiling of a notice of a federal lien to the federal tax lien law, as amended by congress in the internal revenue code in 1990. A federal tax lien may be refiled if notice of the lien is refiled within 11 years and 60 days after the previous filing. The new refiling period is an extension of the previous 7-year and 60-day provision. The SECTION also affects the filing of notices of other federal liens to the extent federal laws and regulations permit those notices to be filed in the same manner as notices of federal tax liens.

**SECTION 16. Initial applicability.** (1) The treatment of sections 14.38 (9), 179.16 (5) and 180.0122 (4) of the statutes first applies to expedited service requests made on the effective date of this subsection.

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(2) The treatment of section 180.1921 (2) of the statutes first applies to annual reports filed on the effective date of this subsection.

**SECTION 17. Effective dates.** This act takes effect on

the day after publication, except as follows:

(1) The treatment of section 180.1921 (2) of the statutes takes effect on the first day of the 4th month beginning after publication.

