

STATEMENT OF SCOPE

Department of Financial Institutions

Rule No.: DFI-CCS 10

Relating to: Fees associated with Wisconsin's Revised Uniform Partnership Act

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

This proposed rule sets fees for certain filings or requests made to the department pursuant to Wisconsin's Revised Uniform Partnership Act (RUPA), which was enacted in 2016 and codified as ch. 178, Stats. RUPA authorizes the Department to collect "a fee for filing, or providing a certified copy of, a record under this chapter," and states that any such fees must be "established by the department by rule." s. 178.0120, Stats. Since the 2016 enactment of RUPA, no such rule has been promulgated—and thus the department has collected no fees for general and limited liability partnership filings, despite continuing to collect filing fees for corporations, limited liability companies, and other types of business entities.

This proposed rule remedies that inconsistency and ensures that partnerships pay their fair share of the state's cost of maintaining business filings and responding to certified-copy requests. The proposed rule would establish the fees the department is authorized to collect for: (1) filing documents under RUPA; (2) providing certified copies of business records under RUPA; (3) providing certificates of status for limited liability partnerships; (4) expediting filings or certificates; and (5) filing records in paper format.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The department of financial institutions, through its division of corporate and consumer services, maintains business filings and official records for partnerships, limited partnerships, business corporations, nonstock corporations, limited liability companies, among others. At present, each of these business types except partnerships is required to pay specified fees for filing or obtaining certified documents from the department. See ss. 179.11, 179.12, 179.13, Stats. (limited partnerships), s. 180.0122, Stats. (corporations), s. 181.0122, Stats. (non-stock corporations), s. 183.0114, Stats. (limited liability companies).

Prior to RUPA, the department collected fees relating to partnership filings, as well. See s. 178.48, Stats. (2013-2014) (setting statutory fees). But unlike prior law, RUPA did not establish the fee amounts by statute; instead, it authorized the department to set those fees by rule. s. 178.0120, Stats. (2017-2018). Those fees would be set by this proposed rule. Until a fee-setting rule is finalized, the department is unable to collect fees for partnership filings and requests.

The fees for business filings are used to fund the department's general program operations, with the remaining balance transferred at year-end to state's general fund. s. 20.144(1)(g), Stats.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 178.0120(1), Stats. provides: "Subject to sub. (2)(a), the department may collect a fee for filing, or providing a certified copy of, a record under this chapter. Subject to sub. (2)(a), the department may also collect a fee in connection with any request under s. 178.0121."

Section 178.0120(2)(a), Stats. provides: "Any fee under sub. (1) shall be established by the department by rule."

Section 178.0120(2)(b), Stats. provides: "The department may collect an expedited service fee, established by rule, for processing in an expeditious manner a record required or permitted to be filed with the department under this chapter."

Section 178.0120(2)(c), Stats. provides: "The department may, by rule, specify a larger fee for filing records in paper format."

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The department estimates that it will take approximately 100 hours to develop this rule. This includes the amount of time required for investigation and analysis, compliance with rulemaking procedures, rule drafting, preparing related documents, coordinating stakeholder meetings, communicating with affected entities, holding public hearings, responding to public input, legislative review and adoption. The department will use existing staff to develop this rule.

6. List with description of all entities that may be affected by the proposed rule:

The proposed rule would affect domestic and foreign partnerships, as those terms are defined by ss. 178.0102(6) and 178.0102(11), Stats.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

The creation, modification and dissolution of partnerships are matters of state law; there is no parallel federal regulation regarding partnerships. RUPA is a uniform law which has been approved and recommended for enactment in all states by the National Conference of Commissioners on Uniform State Laws (NCCUSL).

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule would have no significant impact on small businesses, as defined in s. 227.114(1), Stats. The department contemplates that the fees to be charged will be comparable to those charged for similar filings by other entities, with standard (i.e., non-expedited) fees ranging from \$10 to \$150 depending on the type of document and whether the partnership is domestic or foreign. The department contemplates that document fees at the high end of that range would relate to one-time events (e.g., articles of merger or foreign registration statements), while fees for filing annual reports would be only \$25 for domestic partnerships and \$65 for foreign partnerships. Therefore, the financial impact of this rule on small businesses is de minimis.

Contact Person:

Matthew Lynch
Chief Legal Counsel
Department of Financial Institutions
608-266-7968
Matthew.Lynch@dfi.wisconsin.gov

Department Head or Authorized Signature

Date Submitted