

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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HOUSE BILL 1396

Short Title: Fees for Corporate Certificate of Existence.

(Public)

Sponsors: Representative Michaux.

Referred to: Finance.

April 26, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO ESTABLISH A FEE FOR CERTIFICATES OF EXISTENCE AND
3 AUTHORIZATION FOR CORPORATIONS, NONPROFIT CORPORATIONS,
4 AND LIMITED LIABILITY COMPANIES AND TO PROVIDE FOR
5 CERTIFICATES OF EXISTENCE, CERTIFICATES OF AUTHORIZATION,
6 AND FEES FOR THOSE CERTIFICATES FOR LIMITED LIABILITY
7 PARTNERSHIPS AND LIMITED PARTNERSHIPS.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 55-1-22(a)(25), 55A-1-22(a)(26), and 57C-1-22(a)(24)
10 are repealed.

11 **SECTION 2.** G.S. 55-1-28 is amended by adding a new subsection to read:

12 "(d) The Secretary of State shall establish a reasonable fee, not to exceed fifteen
13 dollars (\$15.00), for furnishing a certificate of existence or certificate of authorization
14 pursuant to this section. The establishment of the fee by the Secretary of State shall not
15 be subject to the rulemaking procedures contained in Article 2A of Chapter 150B of the
16 General Statutes. The amount of any fee received by the Secretary of State pursuant to
17 this subsection that is in excess of five dollars (\$5.00) shall not revert to the General
18 Fund, but shall be used by the Secretary of State for the administration of Chapters 55,
19 55A, 55B, 57C, and 59 of the General Statutes. Monies received and spent pursuant to
20 this subsection shall be subject to audit pursuant to the Executive Budget Act, Article 1
21 of Chapter 143 of the General Statutes."

22 **SECTION 3.** Effective July 1, 2003, G.S. 55-1-28(d), as enacted in Section
23 2 of this act, reads as rewritten:

24 "(d) The Secretary of State shall ~~establish a reasonable fee, not to exceed~~ collect a
25 fee of fifteen dollars ~~(\$15.00), (\$15.00)~~ for furnishing a certificate of existence or
26 certificate of authorization pursuant to this section. ~~The establishment of the fee by the~~
27 ~~Secretary of State shall not be subject to the rulemaking procedures contained in Article~~
28 ~~2A of Chapter 150B of the General Statutes.~~ The amount of any fee received by the

1 Secretary of State pursuant to this subsection that is in excess of five dollars (\$5.00)
2 shall not revert to the General Fund, but shall be used by the Secretary of State for the
3 administration of Chapters 55, 55A, 55B, 57C, and 59 of the General Statutes. Monies
4 received and spent pursuant to this subsection shall be subject to audit pursuant to the
5 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes."

6 **SECTION 4.** G.S. 55A-1-28 is amended by adding a new subsection to read:

7 "(d) The Secretary of State shall establish a reasonable fee, not to exceed fifteen
8 dollars (\$15.00), for furnishing a certificate of existence or certificate of authorization
9 pursuant to this section. The establishment of the fee by the Secretary of State shall not
10 be subject to the rulemaking procedures contained in Article 2A of Chapter 150B of the
11 General Statutes. The amount of any fee received by the Secretary of State pursuant to
12 this subsection that is in excess of five dollars (\$5.00) shall not revert to the General
13 Fund, but shall be used by the Secretary of State for the administration of Chapters 55,
14 55A, 55B, 57C, and 59 of the General Statutes. Monies received and spent pursuant to
15 this subsection shall be subject to audit pursuant to the Executive Budget Act, Article 1
16 of Chapter 143 of the General Statutes."

17 **SECTION 5.** Effective July 1, 2003, G.S. 55A-1-28(d), as enacted in
18 Section 4 of this act, reads as rewritten:

19 ~~"(d) The Secretary of State shall establish a reasonable fee, not to exceed collect a~~
20 ~~fee of fifteen dollars (\$15.00), (\$15.00) for furnishing a certificate of existence or~~
21 ~~certificate of authorization pursuant to this section. The establishment of the fee by the~~
22 ~~Secretary of State shall not be subject to the rulemaking procedures contained in Article~~
23 ~~2A of Chapter 150B of the General Statutes.~~ The amount of any fee received by the
24 Secretary of State pursuant to this subsection that is in excess of five dollars (\$5.00)
25 shall not revert to the General Fund, but shall be used by the Secretary of State for the
26 administration of Chapters 55, 55A, 55B, 57C, and 59 of the General Statutes. Monies
27 received and spent pursuant to this subsection shall be subject to audit pursuant to the
28 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes."

29 **SECTION 6.** G.S. 57C-1-28 is amended by adding a new subsection to read:

30 "(d) The Secretary of State shall establish a reasonable fee, not to exceed fifteen
31 dollars (\$15.00), for furnishing a certificate of existence or certificate of authorization
32 pursuant to this section. The establishment of the fee by the Secretary of State shall not
33 be subject to the rulemaking procedures contained in Article 2A of Chapter 150B of the
34 General Statutes. The amount of any fee received by the Secretary of State pursuant to
35 this subsection that is in excess of five dollars (\$5.00) shall not revert to the General
36 Fund, but shall be used by the Secretary of State for the administration of Chapters 55,
37 55A, 55B, 57C, and 59 of the General Statutes. Monies received and spent pursuant to
38 this subsection shall be subject to audit pursuant to the Executive Budget Act, Article 1
39 of Chapter 143 of the General Statutes."

40 **SECTION 7.** Effective July 1, 2003, G.S. 57C-1-28(d), as enacted in Section
41 6 of this act, reads as rewritten:

42 ~~"(d) The Secretary of State shall establish a reasonable fee, not to exceed collect a~~
43 ~~fee of fifteen dollars (\$15.00), (\$15.00) for furnishing a certificate of existence or~~
44 ~~certificate of authorization pursuant to this section. The establishment of the fee by the~~

1 ~~Secretary of State shall not be subject to the rulemaking procedures contained in Article~~
2 ~~2A of Chapter 150B of the General Statutes.~~ The amount of any fee received by the
3 Secretary of State pursuant to this subsection that is in excess of five dollars (\$5.00)
4 shall not revert to the General Fund, but shall be used by the Secretary of State for the
5 administration of Chapters 55, 55A, 55B, 57C, and 59 of the General Statutes. Monies
6 received and spent pursuant to this subsection shall be subject to audit pursuant to the
7 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes."

8 **SECTION 8.** Article 3B of Chapter 59 of the General Statutes is amended
9 by adding a new section to read:

10 "**§ 59-84.5. Certificate of existence.**

11 (a) Anyone may apply to the Secretary of State to furnish a certificate of
12 existence for a domestic registered limited liability partnership or a certificate of
13 authorization for a foreign limited liability partnership.

14 (b) A certificate of existence or authorization shall set forth all of the following:

15 (1) The domestic registered limited liability partnership's name or the
16 foreign limited liability partnership's name used in this State.

17 (2) That (i) the domestic registered limited liability partnership is duly
18 registered under the law of this State and the date of its registration; or
19 (ii) that the foreign limited liability partnership is registered to transact
20 business in this State.

21 (3) That the registration of the domestic registered limited liability
22 partnership or foreign limited liability partnership has not been
23 suspended for failure to comply with Subchapter I of Chapter 105 of
24 the General Statutes, The Revenue Act, and that the registration of the
25 limited liability partnership has not been revoked.

26 (4) That its most recent annual report required by G.S. 59-84.4 either has
27 been delivered to the Secretary of State or is not delinquent.

28 (5) That its registration has not been withdrawn.

29 (6) Other facts of record in the office of the Secretary of State that may be
30 requested by the applicant.

31 (c) Subject to any qualification stated in the certificate, a certificate of existence
32 or authorization issued by the Secretary of State may be relied upon as conclusive
33 evidence that the domestic or foreign limited liability partnership has registered as
34 required by this Chapter.

35 (d) The Secretary of State shall establish a reasonable fee, not to exceed fifteen
36 dollars (\$15.00), for furnishing a certificate of existence or certificate of authorization
37 pursuant to this section. The establishment of the fee by the Secretary of State shall not
38 be subject to the rulemaking procedures contained in Article 2A of Chapter 150B of the
39 General Statutes. The amount of any fee received by the Secretary of State pursuant to
40 this subsection that is in excess of five dollars (\$5.00) shall not revert to the General
41 Fund, but shall be used by the Secretary of State for the administration of Chapters 55,
42 55A, 55B, 57C, and 59 of the General Statutes. Monies received and spent pursuant to
43 this subsection shall be subject to audit pursuant to the Executive Budget Act, Article 1
44 of Chapter 143 of the General Statutes."

1 **SECTION 9.** Effective July 1, 2003, G.S. 59-84.5(d), as enacted in Section 8
2 of this act, reads as rewritten:

3 "(d) The Secretary of State shall ~~establish a reasonable fee, not to exceed collect a~~
4 fee of fifteen dollars (\$15.00), (\$15.00) for furnishing a certificate of existence or
5 certificate of authorization pursuant to this section. ~~The establishment of the fee by the~~
6 ~~Secretary of State shall not be subject to the rulemaking procedures contained in Article~~
7 ~~2A of Chapter 150B of the General Statutes.~~ The amount of any fee received by the
8 Secretary of State pursuant to this subsection that is in excess of five dollars (\$5.00)
9 shall not revert to the General Fund, but shall be used by the Secretary of State for the
10 administration of Chapters 55, 55A, 55B, 57C, and 59 of the General Statutes. Monies
11 received and spent pursuant to this subsection shall be subject to audit pursuant to the
12 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes."

13 **SECTION 10.** Part 2 of Article 5 of Chapter 59 of the General Statutes is
14 amended by adding a new section to read:

15 **"§ 59-206.3. Certificate of existence.**

16 (a) Anyone may apply to the Secretary of State to furnish a certificate of
17 existence for a domestic limited partnership or a certificate of authorization for a foreign
18 limited partnership.

19 (b) A certificate of existence or authorization shall set forth all of the following:

20 (1) The domestic limited partnership's name or the foreign limited
21 partnership's name used in this State.

22 (2) That (i) the domestic limited partnership has filed a certificate of
23 limited partnership under the law of this State and the date the
24 certificate of limited partnership was filed; or (ii) that the foreign
25 limited partnership is authorized to transact business in this State.

26 (3) That the domestic limited partnership or foreign limited partnership
27 has not been suspended for failure to comply with Subchapter I of
28 Chapter 105 of the General Statutes, The Revenue Act.

29 (4) That its registration has not been cancelled.

30 (5) Other facts of record in the office of the Secretary of State that may be
31 requested by the applicant.

32 (c) Subject to any qualification stated in the certificate, a certificate of existence
33 or authorization issued by the Secretary of State may be relied upon as conclusive
34 evidence that the domestic or foreign limited partnership has registered as required by
35 this Chapter.

36 (d) The Secretary of State shall establish a reasonable fee, not to exceed fifteen
37 dollars (\$15.00), for furnishing a certificate of existence or certificate of authorization
38 pursuant to this section. The establishment of the fee by the Secretary of State shall not
39 be subject to the rulemaking procedures contained in Article 2A of Chapter 150B of the
40 General Statutes. The amount of any fee received by the Secretary of State pursuant to
41 this subsection that is in excess of five dollars (\$5.00) shall not revert to the General
42 Fund, but shall be used by the Secretary of State for the administration of Chapters 55,
43 55A, 55B, 57C, and 59 of the General Statutes. Monies received and spent pursuant to

1 this subsection shall be subject to audit pursuant to the Executive Budget Act, Article 1
2 of Chapter 143 of the General Statutes."

3 **SECTION 11.** Effective July 1, 2003, G.S. 59-206.3(d), as enacted in
4 Section 10 of this act, reads as rewritten:

5 "(d) The Secretary of State shall ~~establish a reasonable fee, not to exceed~~ collect a
6 fee of fifteen dollars (\$15.00), (\$15.00) for furnishing a certificate of existence or
7 certificate of authorization pursuant to this section. ~~The establishment of the fee by the~~
8 ~~Secretary of State shall not be subject to the rulemaking procedures contained in Article~~
9 ~~2A of Chapter 150B of the General Statutes.~~ The amount of any fee received by the
10 Secretary of State pursuant to this subsection that is in excess of five dollars (\$5.00)
11 shall not revert to the General Fund, but shall be used by the Secretary of State for the
12 administration of Chapters 55, 55A, 55B, 57C, and 59 of the General Statutes. Monies
13 received and spent pursuant to this subsection shall be subject to audit pursuant to the
14 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes."

15 **SECTION 12.** G.S. 10A-4 reads as rewritten:

16 "**§ 10A-4. Commissioning.**

17 (a) Except as provided in subsection (c) of this section, the Secretary shall
18 commission as a notary any qualified person who submits an application in accordance
19 with this Chapter.

20 (b) A person qualified for a notarial commission shall meet all of the following
21 requirements:

- 22 (1) Be at least 18 years of age.
- 23 (2) Reside or work in this State.
- 24 (3) Satisfactorily complete a course of study that is approved by the
25 Secretary and consists of not less than three hours nor more than six
26 hours of classroom instruction provided by community colleges
27 throughout the State, unless the person is a licensed member of the Bar
28 of this State.
- 29 (4) Purchase and keep as a reference a manual approved by the Secretary
30 that describes the duties, authority, and ethical responsibilities of
31 notaries public.
- 32 (5) Submit an application containing no significant misstatement or
33 omission of fact. The application form shall be provided by the
34 Secretary and be available at the register of deeds office in each
35 county. Every application shall bear the signature of the applicant
36 written with pen and ink, and the signature shall be acknowledged by
37 the applicant before a person authorized to administer oaths. The
38 applicant shall also obtain the recommendation of one publicly elected
39 official in North Carolina whose recommendation shall be contained
40 on the application.
- 41 (6) ~~Pay a nonrefundable fee of thirty dollars (\$30.00).~~ Pay a
42 nonrefundable fee in an amount established pursuant to subsection (f)
43 of this section.

1 (c) The Secretary may deny an application for commission or recommission as a
2 notary if any of the following applies to the applicant:

3 (1) The applicant has been convicted of a crime involving dishonesty or
4 moral turpitude.

5 (1a) The applicant has been convicted of a felony and the applicant's rights
6 have not been restored.

7 (2) The applicant has had a notarial commission or professional license
8 revoked, suspended, or restricted by this or any other state.

9 (3) The applicant has engaged in official misconduct, whether or not
10 disciplinary action resulted.

11 (d), (e) Repealed by Session Laws 1998-228, s. 3.

12 (f) The Secretary of State shall establish a reasonable fee, not to exceed fifty
13 dollars (\$50.00), for applications submitted under this section. The establishment of the
14 fee by the Secretary of State shall not be subject to the rulemaking procedures contained
15 in Article 2A of Chapter 150B of the General Statutes. The amount of any fee received
16 by the Secretary of State pursuant to this subsection that is in excess of thirty dollars
17 (\$30.00) shall not revert to the General Fund, but shall be used by the Secretary of State
18 for the administration of this Chapter. Monies received and spent pursuant to this
19 subsection shall be subject to audit pursuant to the Executive Budget Act, Article 1 of
20 Chapter 143 of the General Statutes."

21 **SECTION 13.** Effective July 1, 2003, G.S. 10A-4(f), as enacted in Section
22 12 of this act, reads as rewritten:

23 "(f) The Secretary of State shall ~~establish a reasonable fee, not to exceed~~ collect a
24 fee of fifty dollars (\$50.00), (\$50.00) for applications submitted under this section. ~~The~~
25 ~~establishment of the fee by the Secretary of State shall not be subject to the rulemaking~~
26 ~~procedures contained in Article 2A of Chapter 150B of the General Statutes.~~ The
27 amount of any fee received by the Secretary of State pursuant to this subsection that is
28 in excess of thirty dollars (\$30.00) shall not revert to the General Fund, but shall be used
29 by the Secretary of State for the administration of this Chapter. Monies received and
30 spent pursuant to this subsection shall be subject to audit pursuant to the Executive
31 Budget Act, Article 1 of Chapter 143 of the General Statutes."

32 **SECTION 14.** Sections 3, 5, 7, 9, 11, and 13 of this act become effective
33 July 1, 2003. The remainder of this act becomes effective October 1, 2001.