

CHAPTER 28 - REGISTERED OFFICES AND AGENTS

17-28-101. Registered office and registered agent.

(a) Each business entity shall continuously maintain in this state:

(i) A registered office that may be the same as any of its places of business but shall be located at a street address in Wyoming which shall be a physical location where the business entity's registered agent, or a natural person who has an agency relationship with the registered agent, can accept service of process as provided in W.S. 17-28-104 and is physically present at that location; and

(ii) A registered agent, who shall be:

(A) An individual who is at least eighteen (18) years of age, resides in this state and whose business office is identical with the registered office;

(B) A domestic business entity whose business office is identical with the registered office and which has a written agreement creating an agency relationship with an individual providing for acceptance of service of process as provided in W.S. 17-28-104;

(C) A foreign business entity authorized to transact business in this state whose business office is identical with the registered office and which has a written agreement creating an agency relationship with an individual providing for acceptance of service of process as provided in W.S. 17-28-104; or

(D) A business entity or an individual, at least eighteen (18) years of age, who is:

(I) In the business of serving as a registered agent for more than ten (10) entities, including a registered agent which serves as a registered agent for the entities served by another commercial registered agent; and

(II) Registered as a commercial registered agent under W.S. 17-28-105 and whose business office is identical with the registered office. A business entity registered as a commercial registered agent shall have a written agreement creating an agency relationship with a natural person

providing for acceptance of service of process as provided in W.S. 17-28-104.

(b) For purposes of this chapter, "business entity" means a corporation, nonprofit corporation, limited liability company, limited partnership, cooperative marketing association, statutory trust or registered limited liability partnership, whether foreign or domestic.

(c) Every registered agent shall certify compliance with the requirements of this chapter on a form prescribed by the secretary of state on the date of registration.

(d) For purposes of this chapter, "written agreement" or "contract creating an agency relationship" means any written document granting a natural person representing a registered agent the authority to accept service of process on behalf of any entity served by the registered agent. A single document may serve as authorization for each natural person representing the registered agent without listing each natural person individually.

17-28-102. Change of registered office or registered agent.

(a) A business entity may change its registered office or registered agent by signing and delivering to the secretary of state for filing a statement of change that sets forth:

(i) The name of the business entity;

(ii) The street address of its current registered office;

(iii) If the current registered office is to be changed, the street address of the new registered office;

(iv) The name of its current registered agent;

(v) If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent to the appointment executed by the registered agent, either on the statement or attached to it;

(vi) That the new registered office and registered agent comply with the requirements of W.S. 17-28-101 through 17-28-111; and

(vii) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical, if applicable.

(b) If a registered agent changes the street address of his business office, he shall change the street address of the registered office of any business entity for which he is the registered agent by notifying the business entity in writing of the change and signing and delivering to the secretary of state for filing a statement that complies with the requirements of subsection (a) of this section and recites that every entity which the registered agent serves has been notified of the change.

(c) If a registered agent changes its name, it shall change the name of the registered agent of any business entity for which it is the registered agent by notifying the business entity in writing of the change and signing and delivering to the secretary of state for filing a statement that complies with the requirements of subsection (a) of this section and recites that every entity which the registered agent serves has been notified of the change.

17-28-103. Resignation of registered agent.

(a) A registered agent may resign his agency appointment by signing and delivering to the secretary of state for filing the signed original and one (1) exact or conformed copy of a statement of resignation for each entity from which the registered agent resigns. The statement may include a statement that the registered office is also discontinued. The statement of resignation shall state that the registered agent has sent notice to each affected entity at least thirty (30) days prior to the filing of the statement of resignation to the address of the entity last known to the registered agent. The statement shall be addressed to any officer or other authorized person of the entity other than the registered agent.

(b) Upon receiving the resignation of a registered agent where no successor is appointed, the entity shall provide the secretary of state with a statement of change in compliance with W.S. 17-28-102(a) within thirty (30) days following receipt by the business entity of the statement of resignation by a registered agent.

(c) A registered agent may resign his agency appointment and appoint a new registered agent that complies with W.S. 17-28-101(a) by signing and delivering to the secretary of state on a statement of change of registered agent form designated by the secretary of state:

(i) A signed original and one (1) exact or conformed copy of a statement of resignation for each entity from which the registered agent resigns;

(ii) A statement from each affected entity ratifying and approving the appointment of the new registered agent;

(iii) A statement designating a new registered office for each entity affected; and

(iv) A statement from the new registered agent certifying his compliance with all requirements of this chapter and acknowledging his appointment to serve as registered agent for each entity affected.

(d) The agency appointment is terminated, and the registered office discontinued if so provided, on the date on which the statement of resignation was filed under subsections (a) and (b) of this section. The agency appointment is terminated, the registered office discontinued if so provided, and the new registered agent and registered office are effective on the date on which the statement of change of registered agent was filed under subsection (c) of this section.

(e) If an agency appointment is terminated under the provisions of this section and no successor is appointed, service of process on the business entity shall be upon the secretary of state until a new appointment is made or until the entity is administratively dissolved or revoked.

(f) Upon receipt of resignation by a registered agent where no successor is appointed, the secretary of state shall classify the entity as delinquent awaiting administrative dissolution, revocation or forfeiture of its articles of organization as appropriate.

(g) Failure of a commercial registered agent to renew registration pursuant to W.S. 17-28-106 shall constitute a resignation of the registered agent pursuant to this section for purposes of administrative dissolution, revocation or forfeiture of the entities represented, but the registered agent shall

remain responsible for all the requirements of this chapter with respect to each entity represented until a new registered agent is appointed, the registered agent has resigned in accordance with subsection (a) of this section or until the entity is administratively dissolved, revoked or its authority to transact business is forfeited.

17-28-104. Service on business entity.

(a) A business entity's registered agent, or the natural person having an agency relationship with the registered agent as provided in W.S. 17-28-101(a), shall accept service of process, notice, or demand required or permitted by law that is served on the entity.

(b) If a business entity has no registered agent, or the agent cannot with reasonable diligence be served, the entity may be served by registered or certified mail, return receipt requested, addressed to the entity at its principal office. Service is perfected under this subsection at the earliest of:

(i) The date the entity receives the mail;

(ii) The date shown on the return receipt, if signed, either manually or in facsimile, on behalf of the entity; or

(iii) Five (5) days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(c) A business entity may be served as provided in this section or as provided in the Wyoming Rules of Civil Procedure.

(d) Every entity shall provide to its registered agent, or to the secretary of state as provided in W.S. 17-28-107(b), and keep current the name, business address and business telephone number of a natural person who is an officer, director, employee or designated agent of the entity who is authorized to receive communications from the registered agent and is deemed the designated communications contact for the entity.

17-28-105. Commercial registered agent registration required.

(a) Except as provided in subsection (b) of this section, no person shall transact business in this state as a registered agent unless the person is registered with the secretary of

state in accordance with the provisions of this section and W.S. 17-28-106. Violation of this section is punishable under W.S. 17-28-109.

(b) The registration requirements of this section and W.S. 17-28-106 shall not apply to a person who serves as registered agent for ten (10) or fewer business entities, unless the registered agent is serving as registered agent for an entity or entities that is serving as registered agent for more than ten (10) business entities.

(c) Any person claiming to be exempt from registration requirements based upon the provisions of subsection (b) of this section shall have the burden of proving the exemption in any administrative or other civil action.

(d) For purposes of W.S. 17-28-106, "commercial registered agent" means a registered agent required to register under this section.

(e) A commercial registered agent shall not:

(i) Have been convicted of any felony;

(ii) Have any officer, director, partner, manager or other authorized person who has been convicted of any felony;

(iii) Engage in conduct in connection with acting as a registered agent that is intended or likely to deceive or defraud the public; nor

(iv) Have any officer, director, partner, manager or other authorized person whose ability to act as a registered agent has been revoked by the secretary of state or a comparable official in another state for engaging in conduct in connection with acting as a registered agent that is intended or likely to deceive or defraud the public, or who was an officer, director, partner, manager or other authorized person of an entity whose ability to act as a registered agent has been so revoked.

17-28-106. Registration requirements.

(a) A commercial registered agent shall obtain a registration by filing an application with the secretary of state. The application shall be executed and sworn under penalty of perjury and contain information the secretary of state requires by rule including:

(i) The legal name of the applicant;

(ii) The applicant's physical street address of its registered office in this state where service may be made. A separate mailing address may be included in addition to the physical street address;

(iii) Whether the applicant, or in the case of a corporation or other business entity its officers or directors, members, partners or persons serving in a similar capacity, has ever been convicted of a felony;

(iv) The name, address and phone number of the person who has authority to act on behalf of the commercial registered agent;

(v) A statement that the applicant is eighteen (18) years or older if the applicant is a natural person;

(vi) The name, physical street address, phone number and normal business hours of the registered office where the natural person with whom the agent has an agency agreement for purposes of receiving service of process, if applicable may be served; and

(vii) Other information the secretary of state deems appropriate in the registration and identification of registered agents.

(b) Every applicant for registration shall pay a filing fee as set by rule adopted pursuant to this chapter. The fee, other than the late filing fee provided in subsection (c) of this section, shall be designed to recover the cost of administering the provisions of this chapter relating to registered agents. If an application is withdrawn or denied, the secretary of state shall retain the entire fee.

(c) Registration of a commercial registered agent shall be valid for the calendar year of registration and shall expire December 31 of each year subject to the following:

(i) Renewal of registration shall be made by paying the annual registration fee by November 30 of each calendar year;

(ii) Any person acting as a commercial registered agent who renews the registration between December 1 and December 31 shall pay an additional late registration fee equal to the annual filing fee;

(iii) Any person who acts as a commercial registered agent after the expiration of his registration on December 31 of each year and willfully or by neglect fails to renew such registration as provided in this subsection shall be acting in violation of this act. Renewal of a commercial agent registration after December 31 shall be accompanied by a late renewal fee of five hundred dollars (\$500.00) plus an administrative fee which reflects the reasonable costs incurred by the secretary of state for notification of the entities, represented by the commercial registered agent, classified as delinquent awaiting administrative dissolution, revocation or forfeiture of its authority to transact business as provided in W.S. 17-28-103(f);

(iv) All fees shall be paid in full prior to any reregistration as a commercial registered agent.

(d) The secretary of state may publish or cause a listing of registrants to be disseminated to interested persons under such rules as the secretary of state prescribes.

17-28-107. Duties of the registered agent; duties of the entity.

(a) The registered agent shall:

(i) Maintain a physical address in accordance with W.S. 17-28-102(a)(ii) and as defined by the secretary of state by rule;

(ii) Accept service of process in accordance with W.S. 17-28-104(a);

(iii) Maintain the address of record to which all service of process is to be delivered for each entity represented;

(iv) Register as a commercial registered agent pursuant to W.S. 17-28-105 if applicable; and

(v) Maintain at the registered office, the following information for each domestic entity represented which shall be

current within sixty (60) days of any change until the entity's first annual report is accepted for filing with the secretary of state and thereafter when the annual report is due for filing and shall be maintained in a format that can be reasonably produced on demand:

(A) Names and addresses of each entity's directors, officers, limited liability company managers, managing partners, trustees or persons serving in a similar capacity;

(B) The name, address and business telephone number of a natural person who is an officer, director, employee or designated agent of each entity represented who is authorized to receive communications from the registered agent;

(C) A copy of the written contract or agreement creating an agency relationship between the registered agent and a natural person with respect to accepting service of process on behalf of each business entity represented by the registered agent.

(b) If the registered agent and the entity agree, the entity shall file with the secretary of state the information specified in paragraph (a)(iii) and subdivisions (a)(v)(A) and (B) of this section and the information specified in W.S. 17-28-104(d). As verification of the agreement, the entity shall file with the secretary of state a consent form, as provided by that office, which acknowledges the entity's election under this subsection. If the information or form acknowledging the entity's election is filed with the secretary of state, then the registered agent has complied with the requirement to maintain such information under this section.

17-28-108. Production of records.

(a) All records maintained pursuant to W.S. 17-28-107 are subject to periodic, special or other examination by the secretary of state or his representatives as deemed necessary or appropriate in investigations.

(b) The secretary of state may compel production of records required to be maintained pursuant to W.S. 17-28-107 in accordance with the provisions of the Wyoming Administrative Procedure Act.

(c) The secretary of state shall hold any records obtained pursuant to this section confidential except for information already on file with the secretary of state as part of a public document and information required to be in the annual report required by W.S. 17-16-1630(a). The secretary of state may release any such confidential information only pursuant to court ordered subpoena or to a bona fide law enforcement agency for use in a criminal investigation.

(d) Failure to produce or denial of access to records maintained pursuant to W.S. 17-28-107 to the secretary of state on demand or failure to answer a validly issued and enforceable subpoena shall be punishable as provided in W.S. 17-28-109.

(e) Any business entity which provides false records required to be maintained pursuant to W.S. 17-28-107 to the entity's registered agent shall be punished by a fine not exceeding one thousand dollars (\$1,000.00), or by imprisonment not exceeding six (6) months, or both.

17-28-109. Actions against registered agents.

(a) The secretary of state may impose a civil penalty not to exceed five hundred dollars (\$500.00) for each violation, with respect to each entity represented, of this chapter for which no other specific penalty is provided, and may deny or revoke any registration, require enhanced recordkeeping and refuse to accept filings for business entities served by a registered agent if the registered agent, or in the case of registered agent that is a corporation or other business entity, its officers, directors, members, partners or persons serving in a similar capacity:

(i) Has failed to make application for registration as a commercial registered agent under W.S. 17-28-105 if applicable;

(ii) Has failed to maintain records as required by W.S. 17-28-107;

(iii) Cannot be served at the address of the registered office;

(iv) Has willfully violated or willfully failed to comply with any provision of this chapter; or

(v) Cannot be located at the address on the application provided to the secretary of state.

(b) A registered agent has complied with W.S. 17-28-107 if he has timely requested from the entity, either by certified letter or through an engagement letter or other similar document, that the required information be provided and be kept current within sixty (60) days of any change until the entity's first annual report is accepted for filing with the secretary of state. It shall be a defense to an action under paragraph (a)(ii) of this section if the registered agent notifies the secretary of state of the entity's failure to provide the required information or of the registered agent's belief that the information is inaccurate, and the registered agent resigns within sixty (60) days after the date the certified letter requesting information has been sent. No fee shall be assessed a registered agent resigning pursuant to this subsection.

(c) The secretary of state may deny or revoke the registration of a registered agent who has been convicted of any felony or has had an application for commercial registered agent denied or revoked, or in the case of a registered agent that is a corporation or other business entity, its officers, directors, members, partners or persons serving in a similar capacity have been convicted of any felony or have had an application for commercial registered agent denied or revoked.

(d) In any action pursuant to this section the prevailing party may recover costs of investigation, court costs and attorney's fees.

(e) It shall be a defense to any violation under this section if the agent, in the exercise of reasonable diligence could not have known that:

(i) The information maintained by the agent is inaccurate;

(ii) The information provided by the entity represented is inaccurate; or

(iii) An entity used the registered agent's identity or address without the registered agent's knowledge or consent.

(f) The secretary of state may deny registration, require enhanced recordkeeping and refuse to accept filings from any registered agent pursuant to this section without a contested

case hearing. If a contested case hearing is requested, this authority shall only apply until the hearing is resolved.

(g) Any penalty imposed against a registered agent pursuant to this act shall be paid pursuant to the final order as issued by the secretary of state. If the penalty is not paid within sixty (60) days of the order, or according to an alternate schedule indicated in the order, the secretary of state may refuse all filings by a registered agent until the penalty is paid. In addition, in the case of a registered agent that is a corporation or other business entity, the secretary of state may administratively dissolve the entity or revoke its certificate of authority if the penalty is not paid as provided in this subsection.

17-28-110. Reinstatement after administrative dissolution or revocation of authority.

(a) Except as otherwise provided by law for specific business entities, a business entity administratively dissolved or whose certificate of authority is revoked for violation of any provision of this chapter may apply to the secretary of state for reinstatement within two (2) years after the effective date of dissolution or revocation. Reinstatement may be denied by the secretary of state if the business entity has been the subject of secretary of state and law enforcement investigation pertaining to fraud or any other violation of state or federal law, or if there is other reason to believe the business entity was engaged in illegal operations.

(b) If the secretary of state determines that the business entity is in compliance with this chapter, he shall cancel the certificate of dissolution or revocation and prepare a certificate of reinstatement that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the business entity as provided in this chapter.

(c) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution or revocation and the business entity resumes carrying on its business as if the administrative dissolution or revocation had never occurred.

(d) Appeals of decisions of the secretary of state under this section may be made as provided in W.S. 17-16-1423.

17-28-111. Rules and regulations.

The secretary of state shall have the power reasonably necessary to perform the duties required of him by this chapter. The secretary of state shall promulgate reasonable rules and regulations necessary to carry out the purposes of this chapter.