

ESB 1127

THE HOUSE OF REPRESENTATIVES
Thursday, April 2, 2009

ENGROSSED
Senate Bill No. 1127
As Amended

ENGROSSED SENATE BILL NO. 1127 - By: JOLLEY of the Senate and DUNCAN AND PITTMAN of the House.

(corporations - registered agents - maximum fee -
effective date)

1 SECTION 1. AMENDATORY 18 O.S. 2001, Section 1133, is amended to read
2 as follows:

3 Section 1133.

4 CHANGE OF REGISTERED AGENT UPON WHOM PROCESS MAY BE SERVED

5 A. 1. Any foreign corporation which has qualified to do business in this state may
6 change its registered agent and substitute therefor another registered agent by filing a
7 certificate with the Secretary of State, acknowledged in accordance with the provisions of
8 Section 1007 of this title, setting forth:

- 9 a. the name and street address of its registered agent designated in this
10 state upon whom process directed to the corporation may be served,
11 and
12 b. a revocation of all previous appointments of agent for such purposes.

1 2. The registered agent shall be either an individual residing in this state when
2 appointed or a corporation, limited liability company, or limited partnership authorized
3 to transact business in this state.

4 B. Any individual or corporation designated by a foreign corporation as its
5 registered agent for service of process may resign by filing with the Secretary of State a
6 signed statement that the agent is unwilling to continue to act as the registered agent of
7 the corporation for service of process, including in the statement the post office address of
8 the main or headquarters office of the foreign corporation, but the resignation shall not
9 become effective until thirty (30) days after the statement is filed. The statement shall
10 be acknowledged by the registered agent and shall contain a representation that written
11 notice of resignation was given to the corporation at least thirty (30) days prior to the
12 filing of the statement by mailing or delivering the notice to the corporation at its
13 address given in the statement.

14 C. If any agent designated and certified as required by the provisions of Section
15 1130 of this title shall die, remove himself from this state or resign, then the foreign
16 corporation for which the agent had been so designated and certified, within ten (10)
17 days after the death, removal or resignation of its agent, shall substitute, designate and
18 certify to the Secretary of State, the name of another registered agent for the purposes of
19 the Oklahoma General Corporation Act, and all process, orders, rules and notices may be
20 served on or given to the substituted agent with like effect.

21 D. Any individual or corporation designated by a foreign corporation as its
22 registered agent for service of process may change the address of the registered office of

1 the corporation or corporations for which he or she is the registered agent to another
2 address in this state by filing with the Secretary of State a certificate in the name of each
3 affected corporation, executed and acknowledged by the registered agent, setting forth
4 the address at which the registered agent has maintained the registered office, and
5 further certifying to the new address to which the registered office will be changed on a
6 given day, and at which new address the registered agent will thereafter maintain the
7 registered office. Thereafter, or until further change of address, as authorized by law, the
8 registered office in this state shall be located at the new address of the registered agent
9 thereof as given in the certificate.

10 E. In the event of a change of name of any individual or corporation designated by a
11 foreign corporation as its registered agent for service of process, the registered agent
12 shall file with the Secretary of State a certificate in the name of each affected
13 corporation, executed and acknowledged by the registered agent, setting forth the new
14 name of the registered agent, the name of the registered agent before it was changed,
15 and the address at which the registered agent has maintained the registered office for
16 the affected corporation. a change of name of any person or corporation acting as
17 registered agent as a result of a merger or consolidation of the registered agent, with or
18 into another person or corporation which succeeds to its assets by operation of law, shall
19 be deemed a change of name for purposes of this section.

20 SECTION 2. AMENDATORY 18 O.S. 2001, Section 1142, is amended to read
21 as follows:

22 Section 1142.

1 10. For filing and issuing amended certificates of incorporation or certificates of
2 restatement, reorganization, revival, extension or dissolution, the fee shall be Fifty
3 Dollars (\$50.00); provided, however, ~~not-for-profit~~ corporations shall only be required to
4 pay a fee of Twenty-five Dollars (\$25.00). If an amendment shall provide for an increase
5 in authorized capital in excess of Fifty Thousand Dollars (\$50,000.00), the filing fee shall
6 be an amount equal to one-tenth of one percent (1/10 of 1%) of such increase;

7 11. For filing and issuing certificates of consolidation, if the resulting corporation is
8 a domestic corporation, or merger, if the surviving corporation is a domestic corporation,
9 the fee shall be One Hundred Dollars (\$100.00); provided, however, not-for-profit
10 corporations shall only be required to pay a fee of Twenty-five Dollars (\$25.00). If the
11 merger or consolidation shall increase the authorized capital of the surviving or resulting
12 corporation in excess of Fifty Thousand Dollars (\$50,000.00), the filing fee shall be an
13 amount equal to one-tenth of one percent (1/10 of 1%) of such increase;

14 12. For filing and issuing a certificate of conversion, whenever the resulting
15 corporation is a domestic corporation, the minimum fee shall be One Hundred Dollars
16 (\$100.00); provided, however, if the certificate of incorporation of the resulting
17 corporation authorizes capital stock in excess of Fifty Thousand Dollars (\$50,000.00), the
18 filing fee shall be an amount equal to one-tenth of one percent (1/10 of 1%) of such
19 authorized capital. If the resulting domestic corporation is not for profit, it shall only be
20 required to pay a fee of Fifty Dollars (\$50.00);

21 13. For issuing a certificate to a foreign corporation to do business in this state, and
22 filing a certificate and statement of such corporation required pursuant to the provisions

1 of Section 1130 of this title, the fee shall be one-tenth of one percent (1/10 of 1%) of the
2 maximum amount of capital invested by such corporation in the state at any time during
3 the fiscal year such certificate is issued to any such foreign corporation; provided, that
4 the minimum fee for any such service shall be Three Hundred Dollars (\$300.00);
5 provided further, that no such corporation shall be required to pay a fee on an amount in
6 excess of its authorized capital;

7 14. For amended certificate of qualification of a foreign corporation, a fee of Two
8 Hundred Dollars (\$200.00); provided, however, for a certificate solely reflecting a change
9 of mailing address, a fee of Ten Dollars (\$10.00);

10 15. For filing a certificate of consolidation, if the resulting corporation is a foreign
11 corporation, or merger, if the surviving corporation is a foreign corporation, the fee shall
12 be One Hundred Dollars (\$100.00);

13 16. For filing a certificate of withdrawal of a foreign corporation doing business in
14 this state, a fee of One Hundred Dollars (\$100.00);

15 17. Every foreign corporation on the anniversary of its qualification in this state
16 each year, shall cause to be filed with the Secretary of State a certificate of its president,
17 vice-president or other managing officers, in which shall be stated and shown the
18 maximum amount of capital the corporation had invested in the state at any time
19 subsequent to the issuance to it of a certificate to do business in this state and the
20 amount of capital previously paid upon. If the amount of capital so invested as shown by
21 said certificate exceeds the amount formerly paid upon, the corporation, at the time of
22 filing said certificate, shall pay to the Secretary of State an additional fee equal to

1 one-tenth of one percent (1/10 of 1%) of the amount of such excess capital so invested by
2 the corporation in the state; provided, that no such corporation shall be required to pay a
3 filing fee on an amount in excess of its authorized capital, or to file the certificate
4 provided for in this paragraph after it shall have paid a filing fee on its total authorized
5 capitalization;

6 18. For acting as the registered agent, a fee of One Hundred Dollars (\$100.00)
7 payable on the first day of July each year, and if not paid before the next ensuing
8 September 1st, the Oklahoma Tax Commission shall suspend and forfeit the charter of
9 the delinquent corporation pursuant to the procedures prescribed in Section 1212 of Title
10 68 of the Oklahoma Statutes. The ~~Oklahoma~~ Tax Commission shall collect and audit the
11 registered agent fee authorized pursuant to this paragraph in conjunction with the
12 collection and audit of franchise taxes as provided for in Sections 1201 through 1214 of
13 Title 68 of the Oklahoma Statutes. All monies received by the ~~Oklahoma~~ Tax
14 Commission pursuant to the provisions of this paragraph shall be paid to the State
15 Treasurer for deposit in the General Revenue Fund; ~~and~~

16 19. For filing a change of address for any individual or corporation designated by a
17 corporation as its registered agent for service of process, a fee of Twenty-five Dollars
18 (\$25.00), except that the maximum fee for simultaneous filings by a registered agent for
19 more than one corporation may not exceed One Thousand Dollars (\$1,000.00); and

20 20. For any response by means of telecommunications to inquiries regarding
21 information required to be maintained by the Secretary of State, a fee of Five Dollars

1 (\$5.00), unless otherwise provided. Fees collected pursuant to this paragraph shall be
2 deposited in the Revolving Fund for the Office of the Secretary of State.

3 B. Except as otherwise provided by law, fees paid to the Secretary of State in
4 accordance with the provisions of the Oklahoma General Corporation Act shall be
5 properly accounted for and shall be paid monthly to the State Treasurer for deposit in the
6 General Revenue Fund.

7 C. For any certificate supplied by the county clerk, such clerk shall receive a fee of
8 One Dollar (\$1.00). Such fees shall be properly accounted for and shall be paid into the
9 county treasury in the same manner as other fees collected by the county clerk for the
10 filing and recording of mortgages and deeds.

11 D. In any court proceeding pursuant to the provisions of the Oklahoma General
12 Corporation Act requiring the filing of any decree, order, report or other document in the
13 Office of the Secretary of State or in the office of any county clerk, in addition to the
14 usual court costs and the costs for filing in the office of the clerk of the court, fees equal to
15 the amounts provided for in this section for such required filing shall be collected as costs
16 in such proceedings and such amount shall be forwarded to the Secretary of State and
17 the county clerk with the papers to be filed.

18 E. The provisions contained in this section relating to the payment of incorporation
19 fees by foreign corporations are not intended and shall not be construed to relieve such
20 corporations, where applicable, of the payment of the annual corporate franchise tax to
21 the ~~Oklahoma~~ Tax Commission.

1 F. For the purposes of computing the fees to be collected by the Secretary of State
2 pursuant to the provisions of this section, each share without par value shall be treated
3 the same as a share with a par value of Fifty Dollars (\$50.00), and the fees thereon shall
4 be collected accordingly.

5 G. Payments for any required fees except as otherwise provided by law may be
6 made as follows:

7 1. By the applicant's personal or company check, cash, or money order; or

8 2. By a nationally recognized credit card issued to the applicant. The Secretary of
9 State may add a convenience fee, not to exceed four percent (4%) of the amount of such
10 payment for services provided through telephonic or electronic media. For purposes of
11 this paragraph, "nationally recognized credit card" means any instrument or device,
12 whether known as a credit card, credit plate, charge plate, or by any other name, issued
13 with or without fee by an issuer for the use of the cardholder in obtaining goods, services,
14 or anything else of value on credit which is accepted by over one thousand merchants in
15 this state. The Secretary of State shall determine which nationally recognized credit
16 cards will be accepted; provided, however, the Secretary of State must ensure that no loss
17 of state revenue will occur by the use of such card. The convenience fee collected
18 pursuant to this paragraph shall be credited to the Revolving Fund for the Office of the
19 Secretary of State, as established in Section 276.1 of Title 62 of the Oklahoma Statutes.

20 SECTION 3. AMENDATORY 18 O.S. 2001, Section 2055, as amended by
21 Section 3, Chapter 22, O.S.L. 2002 (18 O.S. Supp. 2008, Section 2055), is amended to
22 read as follows:

1 Section 2055. The Secretary of State shall charge and collect the following fees:

2 1. For filing the original articles of organization, a fee of One Hundred Dollars
3 (\$100.00);

4 2. For filing amended, corrected or restated articles of organization, a fee of Fifty
5 Dollars (\$50.00);

6 3. For filing articles of merger or consolidation and issuing a certificate of merger or
7 consolidation or filing articles of conversion, a fee of One Hundred Dollars (\$100.00);

8 4. For filing articles of dissolution and issuing a certificate of cancellation, a fee of
9 Fifty Dollars (\$50.00);

10 5. For filing a certificate of correction of statements in an application for
11 registration of a foreign limited liability company, a fee of One Hundred Dollars
12 (\$100.00);

13 6. For issuing a certificate for any purpose whatsoever, a fee of Ten Dollars
14 (\$10.00);

15 7. For filing an application for reservation of a name, or for filing a notice of the
16 transfer or cancellation of any name reservation, a fee of Ten Dollars (\$10.00);

17 8. For filing a statement of change of address of the principal office or resident
18 agent, or both, or the resignation of a resident agent, a fee of Twenty-five Dollars
19 (\$25.00), except that the maximum fee for simultaneous filings by a registered agent for
20 more than one limited liability company may not exceed One Thousand Dollars
21 (\$1,000.00);

1 9. For filing an application for registration as a foreign limited liability company, a
2 fee of Three Hundred Dollars (\$300.00);

3 10. For filing an application of withdrawal as provided in Section 2047 of this title,
4 a fee of One Hundred Dollars (\$100.00);

5 11. For any service of notice, demand, or process upon the Secretary of State as
6 resident agent of a limited liability company, a fee of Twenty-five Dollars (\$25.00), which
7 amount may be recovered as taxable costs by the party to be sued, action, or proceeding
8 causing such service to be made if such party prevails therein; and

9 12. For acting as the registered agent, a fee of Forty Dollars (\$40.00) shall be paid
10 on July 1 each year to the Office of the Secretary of State.

11 All fees shall be properly accounted for and shall be paid into the State Treasury
12 monthly. All fees received by the Secretary of State pursuant to the provisions of this
13 section shall be paid to the credit of the Revolving Fund for the Office of the Secretary of
14 State created pursuant to Section 276.1 of Title 62 of the Oklahoma Statutes.

15 SECTION 4. AMENDATORY 54 O.S. 2001, Section 1-105, as amended by
16 Section 33, Chapter 253, O.S.L. 2008 (54 O.S. Supp. 2008, Section 105), is amended to
17 read as follows:

18 Section 1-105. Execution, Filing, and Recording of Statements.

19 (a) A statement may be filed in the office of the Secretary of State. A certified copy
20 of a statement that is filed in an office in another state may be filed in the office of the
21 Secretary of State. Either filing has the effect provided in this act with respect to
22 partnership property located in or transactions that occur in this state.

1 (b) A certified copy of a statement that has been filed in the office of the Secretary
2 of State and recorded in the office for recording transfers of real property has the effect
3 provided for recorded statements in this act. A recorded statement that is not a certified
4 copy of a statement filed in the office of the Secretary of State does not have the effect
5 provided for recorded statements in this act.

6 (c) A statement filed by a partnership must be executed by at least two partners.
7 Other statements must be executed by a partner or other person authorized by this act.
8 An individual who executes a statement as, or on behalf of, a partner or other person
9 named as a partner in a statement shall personally declare under penalty of perjury that
10 the contents of the statement are accurate.

11 (d) A person authorized by this act to file a statement may amend or cancel the
12 statement by filing an amendment or cancellation that names the partnership, identifies
13 the statement, and states the substance of the amendment or cancellation.

14 (e) A person who files a statement pursuant to this section shall promptly send a
15 copy of the statement to every nonfiling partner and to any other person named as a
16 partner in the statement. Failure to send a copy of a statement to a partner or other
17 person does not limit the effectiveness of the statement as to a person not a partner.

18 (f) The county clerk recording transfers of real property may collect a fee for
19 recording a statement.

20 (g) The Secretary of State shall charge and collect the following fees:

21 (1) for filing a statement, a fee of One Hundred Dollars (\$100.00);

- 1 (2) for filing an amendment, cancellation, or dissolution, a fee of Fifty Dollars
2 (\$50.00);
- 3 (3) for filing a statement of denial, a fee of Twenty-five Dollars (\$25.00);
- 4 (4) for filing a statement of disassociation, a fee of Twenty-five Dollars (\$25.00);
- 5 (5) for filing a statement of change of agent or office, resignation of agent, or change
6 of chief executive office, a fee of Twenty-five Dollars (\$25.00);
- 7 (6) for filing a change of address for any individual or corporation designated by a
8 partnership as its registered agent for service of process, a fee of Twenty-five Dollars
9 (\$25.00), except that the maximum fee for simultaneous filings by a registered agent for
10 more than one partnership may not exceed One Thousand Dollars (\$1,000.00);
- 11 (7) for filing a statement of conversion, a fee of One Hundred Dollars (\$100.00);
- 12 ~~(7)~~ (8) for filing a statement of merger, a fee of One Hundred Dollars (\$100.00); and
- 13 ~~(8)~~ (9) for filing a fictitious name certificate, a fee of Fifty Dollars (\$50.00), and for
14 an amendment to the certificate, a fee of Twenty-five Dollars (\$25.00).

15 (h) A partnership name filed in a statement pursuant to this act may not be the
16 same as or indistinguishable from the name of any other partnership, corporation,
17 limited liability company or limited partnership, trade name or fictitious name, or other
18 name reserved with or on file with the Secretary of State.

19 (i) The provisions of subparagraph h of this paragraph shall not apply if one of the
20 following is filed with the Secretary of State:

21 (1) the written consent of the other partnership, corporation, limited liability
22 company, limited partnership, or holder of the trade name, fictitious name or other

1 reserved name to use the same or indistinguishable name with the addition of one or
2 more words, numerals, numbers or letters to make that name distinguishable upon the
3 records of the Secretary of State, except that the addition of words, numerals, numbers or
4 letters to make the name distinguishable shall not be required where such written
5 consent states that the consenting entity is about to change its name, cease to do
6 business, withdraw from the state or be wound up, or

7 (2) a certified copy of a final decree of a court of competent jurisdiction establishing
8 the prior right of such partnership or holder of partnership name to the use of such name
9 in this state.

10 (j) Any signature on any instrument authorized to be filed with the Secretary of
11 State under any provision of this act may be by facsimile.

12 SECTION 5. AMENDATORY 54 O.S. 2001, Section 305.1, is amended to read
13 as follows:

14 Section 305.1 A. A domestic limited partnership may change the location of its
15 registered office in this state at any time as it may see fit. This change may be made by
16 filing in the office of the Secretary of State a certificate, signed by a general partner,
17 showing the change. Any individual or corporation designated by a domestic limited
18 partnership as its registered agent for service of process may change the address of the
19 registered office of the limited partnership or limited partnerships for which he or she is
20 the registered agent to another address in this state by filing with the Secretary of State
21 a certificate in the name of each affected corporation, executed and acknowledged by the
22 registered agent, setting forth the address at which the registered agent has maintained

1 the registered office, and further certifying to the new address to which the registered
2 office will be changed on a given day, and at which new address the registered agent will
3 thereafter maintain the registered office. Thereafter, or until further change of address,
4 as authorized by law, the registered office in this state shall be located at the new
5 address of the registered agent thereof as given in the certificate. At the time of filing of
6 any such certificate, a fee in the amount of Twenty-five Dollars (\$25.00) shall be paid to
7 the Secretary of State, except that the maximum fee for simultaneous filings by a
8 registered agent for more than one partnership may not exceed One Thousand Dollars
9 (\$1,000.00).

10 B. A domestic limited partnership may change its registered agent at any time as it
11 may see fit. Such change may be made by filing in the office of the Secretary of State a
12 certificate, signed by a general partner and acknowledged by a notary public, showing
13 the change. At the time of filing of any such certificate, a fee in the amount of Twenty-
14 five Dollars (\$25.00) shall be paid to the Secretary of State.

15 C. The registered agent of a limited partnership may resign without appointing a
16 successor by filing in the name of the limited partnership a certificate with the Secretary
17 of State; but such resignation shall not become effective until thirty (30) days after each
18 certificate is filed. There shall be included in the certificate a statement of such
19 registered agent, if an individual, or of the president, a vice-president, or the secretary
20 thereof, if a corporation, that at least thirty (30) days prior to the date of the filing of the
21 certificate, due notice of the resignation of the registered agent was sent by certified or
22 registered mail to the limited partnership for which such registered agent was acting, at

1 the principal office thereof, if known to the registered agent or, if not, to the last-known
2 address of the attorney or other individual at whose request the registered agent was
3 appointed for such corporation.

4 D. After receipt of the notice of the resignation of its registered agent provided for
5 in subsection C of this section, the limited partnership for which such registered agent
6 was acting shall obtain and designate a new registered agent to take the place of the
7 registered agent so resigning in the same manner as provided for in subsection B of this
8 section for change of registered agent. If such limited partnership, being a limited
9 partnership of this state, fails to obtain and designate a new registered agent prior to the
10 expiration of the period of thirty (30) days after the filing by the registered agent of the
11 certificate of resignation, the Secretary of State shall be deemed to be the registered
12 agent of the limited partnership until a new registered agent is designated. The Office of
13 the Secretary of State shall charge the fee prescribed by Section 350.1 of this title for
14 acting as registered agent.

15 E. If a limited partnership has no registered agent or the registered agent cannot
16 be found, then service on the limited partnership may be made by serving the Secretary
17 of State as its agent as provided in Section 2004 of Title 12 of the Oklahoma Statutes.

18 SECTION 6. AMENDATORY 54 O.S. 2001, Section 353.1, is amended to read
19 as follows:

20 Section 353.1 A foreign limited partnership may change the location of its
21 registered office or its registered agent in this state at any time as it may see fit. Such
22 change may be made by filing in the office of the Secretary of State a certificate, signed

1 by a general partner, detailing the change or changes. Any individual or corporation
2 designated by a foreign limited partnership as its registered agent for service of process
3 may change the address of the registered office of the limited partnership or limited
4 partnerships for which he or she is the registered agent to another address in this state
5 by filing with the Secretary of State a certificate in the name of each affected corporation,
6 executed and acknowledged by the registered agent, setting forth the address at which
7 the registered agent has maintained the registered office, and further certifying to the
8 new address to which the registered office will be changed on a given day, and at which
9 new address the registered agent will thereafter maintain the registered office.
10 Thereafter, or until further change of address, as authorized by law, the registered office
11 in this state shall be located at the new address of the registered agent thereof as given
12 in the certificate. At the time of filing of any such certificate, a fee in the amount of
13 Twenty-five Dollars (\$25.00) shall be paid to the Secretary of State, except that the
14 maximum fee for simultaneous filings by a registered agent for more than one
15 partnership may not exceed One Thousand Dollars (\$1000.00).

16 SECTION 7. This act shall become effective November 1, 2009.

17 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND
18 FINANCIAL SERVICES, dated 04-01-09 - DO PASS, As Amended.