

SB 1127

Senate Bill No. 1127
As Amended

SENATE BILL NO. 1127 - By: Jolley of the Senate and Duncan of the House.

[corporations - registered agents - maximum fee - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

Section 1133.

CHANGE OF REGISTERED AGENT UPON WHOM PROCESS MAY BE SERVED

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

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

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

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

18 C. If any agent designated and certified as required by the
19 provisions of Section 1130 of this title shall die, remove himself
20 from this state or resign, then the foreign corporation for which
21 the agent had been so designated and certified, within ten (10) days
22 after the death, removal or resignation of its agent, shall
23 substitute, designate and certify to the Secretary of State, the

1 name of another registered agent for the purposes of the Oklahoma
2 General Corporation Act, and all process, orders, rules and notices
3 may be served on or given to the substituted agent with like effect.

4 D. Any individual or corporation designated by a foreign
5 corporation as its registered agent for service of process may
6 change the address of the registered office of the corporation or
7 corporations for which he or she is the registered agent to another
8 address in this state by filing with the Secretary of State a
9 certificate in the name of each affected corporation, executed and
10 acknowledged by the registered agent, setting forth the address at
11 which the registered agent has maintained the registered office, and
12 further certifying to the new address to which the registered office
13 will be changed on a given day, and at which new address the
14 registered agent will thereafter maintain the registered office.
15 Thereafter, or until further change of address, as authorized by
16 law, the registered office in this state shall be located at the new
17 address of the registered agent thereof as given in the certificate.

18 E. In the event of a change of name of any individual or
19 corporation designated by a foreign corporation as its registered
20 agent for service of process, the registered agent shall file with
21 the Secretary of State a certificate in the name of each affected
22 corporation, executed and acknowledged by the registered agent,
23 setting forth the new name of the registered agent, the name of the

1 registered agent before it was changed, and the address at which the
2 registered agent has maintained the registered office for the
3 affected corporation. a change of name of any person or corporation
4 acting as registered agent as a result of a merger or consolidation
5 of the registered agent, with or into another person or corporation
6 which succeeds to its assets by operation of law, shall be deemed a
7 change of name for purposes of this section.

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

10 Section 1142.

11 FILING AND OTHER SERVICE FEES

12 A. The Secretary of State, for services performed in the Office
13 of the Secretary of State and for expense of mailing, shall charge
14 and collect the following fees:

15 1. For any report, document, or other paper required to be
16 filed in the Office of the Secretary of State, a fee of Twenty-five
17 Dollars (\$25.00);

18 2. For reservation of corporate name, a fee of Ten Dollars
19 (\$10.00);

20 3. For issuing extra copies of any certificate not requiring
21 any extra filing of papers or documents of any kind, a fee of Ten
22 Dollars (\$10.00);

- 1 4. For issuing any other certificate, a fee of Ten Dollars
2 (\$10.00);
- 3 5. For receiving a filing or indexing the annual certificate of
4 a foreign corporation doing business in this state, or both when
5 filed together, a fee of Ten Dollars (\$10.00);
- 6 6. For preclearance of any document for filing, a fee of Fifty
7 Dollars (\$50.00);
- 8 7. For each service of process made upon and accepted by the
9 Secretary of State, a fee of Twenty-five Dollars (\$25.00);
- 10 8. For preparing and providing a report of a record search, a
11 fee of Five Dollars (\$5.00);
- 12 9. For filing and issuing certificates of incorporation, the
13 fee shall be one-tenth of one percent (1/10 of 1%) of the authorized
14 capital stock of such corporation; provided, that the minimum fee
15 for any such service shall be Fifty Dollars (\$50.00); provided
16 further, that not for profit corporations shall only be required to
17 pay a fee of Twenty-five Dollars (\$25.00);
- 18 10. For filing and issuing amended certificates of
19 incorporation or certificates of restatement, reorganization,
20 revival, extension or dissolution, the fee shall be Fifty Dollars
21 (\$50.00); provided, however, not_for_profit corporations shall only
22 be required to pay a fee of Twenty-five Dollars (\$25.00). If an
23 amendment shall provide for an increase in authorized capital in

1 excess of Fifty Thousand Dollars (\$50,000.00), the filing fee shall
2 be an amount equal to one-tenth of one percent (1/10 of 1%) of such
3 increase;

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

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

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

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

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

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

22 17. Every foreign corporation on the anniversary of its
23 qualification in this state each year, shall cause to be filed with

1 the Secretary of State a certificate of its president,
2 vice-president or other managing officers, in which shall be stated
3 and shown the maximum amount of capital the corporation had invested
4 in the state at any time subsequent to the issuance to it of a
5 certificate to do business in this state and the amount of capital
6 previously paid upon. If the amount of capital so invested as shown
7 by said certificate exceeds the amount formerly paid upon, the
8 corporation, at the time of filing said certificate, shall pay to
9 the Secretary of State an additional fee equal to one-tenth of one
10 percent (1/10 of 1%) of the amount of such excess capital so
11 invested by the corporation in the state; provided, that no such
12 corporation shall be required to pay a filing fee on an amount in
13 excess of its authorized capital, or to file the certificate
14 provided for in this paragraph after it shall have paid a filing fee
15 on its total authorized capitalization;

16 18. For acting as the registered agent, a fee of One Hundred
17 Dollars (\$100.00) payable on the first day of July each year, and if
18 not paid before the next ensuing September 1st, the Oklahoma Tax
19 Commission shall suspend and forfeit the charter of the delinquent
20 corporation pursuant to the procedures prescribed in Section 1212 of
21 Title 68 of the Oklahoma Statutes. The ~~Oklahoma~~ Tax Commission
22 shall collect and audit the registered agent fee authorized pursuant
23 to this paragraph in conjunction with the collection and audit of

1 franchise taxes as provided for in Sections 1201 through 1214 of
2 Title 68 of the Oklahoma Statutes. All monies received by the
3 ~~Oklahoma~~ Tax Commission pursuant to the provisions of this paragraph
4 shall be paid to the State Treasurer for deposit in the General
5 Revenue Fund; ~~and~~

6 19. For filing a change of address for any individual or
7 corporation designated by a corporation as its registered agent for
8 service of process, a fee of Twenty-five Dollars (\$25.00), except
9 that the maximum fee for simultaneous filings by a registered agent
10 for more than one corporation may not exceed One Thousand Dollars
11 (\$1,000.00); and

12 20. For any response by means of telecommunications to
13 inquiries regarding information required to be maintained by the
14 Secretary of State, a fee of Five Dollars (\$5.00), unless otherwise
15 provided. Fees collected pursuant to this paragraph shall be
16 deposited in the Revolving Fund for the Office of the Secretary of
17 State.

18 B. Except as otherwise provided by law, fees paid to the
19 Secretary of State in accordance with the provisions of the Oklahoma
20 General Corporation Act shall be properly accounted for and shall be
21 paid monthly to the State Treasurer for deposit in the General
22 Revenue Fund.

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

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

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

20 F. For the purposes of computing the fees to be collected by
21 the Secretary of State pursuant to the provisions of this section,
22 each share without par value shall be treated the same as a share

1 with a par value of Fifty Dollars (\$50.00), and the fees thereon
2 shall be collected accordingly.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 12. For acting as the registered agent, a fee of Forty Dollars
17 (\$40.00) shall be paid on July 1 each year to the Office of the
18 Secretary of State.

19 All fees shall be properly accounted for and shall be paid into
20 the State Treasury monthly. All fees received by the Secretary of
21 State pursuant to the provisions of this section shall be paid to
22 the credit of the Revolving Fund for the Office of the Secretary of

1 State created pursuant to Section 276.1 of Title 62 of the Oklahoma
2 Statutes.

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

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

7 (a) A statement may be filed in the office of the Secretary of
8 State. A certified copy of a statement that is filed in an office
9 in another state may be filed in the office of the Secretary of
10 State. Either filing has the effect provided in this act with
11 respect to partnership property located in or transactions that
12 occur in this state.

13 (b) A certified copy of a statement that has been filed in the
14 office of the Secretary of State and recorded in the office for
15 recording transfers of real property has the effect provided for
16 recorded statements in this act. A recorded statement that is not a
17 certified copy of a statement filed in the office of the Secretary
18 of State does not have the effect provided for recorded statements
19 in this act.

20 (c) A statement filed by a partnership must be executed by at
21 least two partners. Other statements must be executed by a partner
22 or other person authorized by this act. An individual who executes
23 a statement as, or on behalf of, a partner or other person named as

1 a partner in a statement shall personally declare under penalty of
2 perjury that the contents of the statement are accurate.

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

7 (e) A person who files a statement pursuant to this section
8 shall promptly send a copy of the statement to every nonfiling
9 partner and to any other person named as a partner in the statement.
10 Failure to send a copy of a statement to a partner or other person
11 does not limit the effectiveness of the statement as to a person not
12 a partner.

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

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

17 (1) for filing a statement, a fee of One Hundred Dollars
18 (\$100.00);

19 (2) for filing an amendment, cancellation, or dissolution, a
20 fee of Fifty Dollars (\$50.00);

21 (3) for filing a statement of denial, a fee of Twenty-five
22 Dollars (\$25.00);

1 (4) for filing a statement of disassociation, a fee of Twenty-
2 five Dollars (\$25.00);

3 (5) for filing a statement of change of agent or office,
4 resignation of agent, or change of chief executive office, a fee of
5 Twenty-five Dollars (\$25.00);

6 (6) for filing a change of address for any individual or
7 corporation designated by a partnership as its registered agent for
8 service of process, a fee of Twenty-five Dollars (\$25.00), except
9 that the maximum fee for simultaneous filings by a registered agent
10 for more than one partnership may not exceed One Thousand Dollars
11 (\$1,000.00);

12 (7) for filing a statement of conversion, a fee of One Hundred
13 Dollars (\$100.00);

14 ~~(7)~~ (8) for filing a statement of merger, a fee of One Hundred
15 Dollars (\$100.00); and

16 ~~(8)~~ (9) for filing a fictitious name certificate, a fee of
17 Fifty Dollars (\$50.00), and for an amendment to the certificate, a
18 fee of Twenty-five Dollars (\$25.00).

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

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

4 (1) the written consent of the other partnership, corporation,
5 limited liability company, limited partnership, or holder of the
6 trade name, fictitious name or other reserved name to use the same
7 or indistinguishable name with the addition of one or more words,
8 numerals, numbers or letters to make that name distinguishable upon
9 the records of the Secretary of State, except that the addition of
10 words, numerals, numbers or letters to make the name distinguishable
11 shall not be required where such written consent states that the
12 consenting entity is about to change its name, cease to do business,
13 withdraw from the state or be wound up, or

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

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

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

22 Section 305.1 A. A domestic limited partnership may change the
23 location of its registered office in this state at any time as it

1 may see fit. This change may be made by filing in the office of the
2 Secretary of State a certificate, signed by a general partner,
3 showing the change. Any individual or corporation designated by a
4 domestic limited partnership as its registered agent for service of
5 process may change the address of the registered office of the
6 limited partnership or limited partnerships for which he or she is
7 the registered agent to another address in this state by filing with
8 the Secretary of State a certificate in the name of each affected
9 corporation, executed and acknowledged by the registered agent,
10 setting forth the address at which the registered agent has
11 maintained the registered office, and further certifying to the new
12 address to which the registered office will be changed on a given
13 day, and at which new address the registered agent will thereafter
14 maintain the registered office. Thereafter, or until further change
15 of address, as authorized by law, the registered office in this
16 state shall be located at the new address of the registered agent
17 thereof as given in the certificate. At the time of filing of any
18 such certificate, a fee in the amount of Twenty-five Dollars
19 (\$25.00) shall be paid to the Secretary of State, except that the
20 maximum fee for simultaneous filings by a registered agent for more
21 than one partnership may not exceed One Thousand Dollars
22 (\$1,000.00).

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

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

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

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

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

22 Section 353.1 A foreign limited partnership may change the
23 location of its registered office or its registered agent in this

1 state at any time as it may see fit. Such change may be made by
2 filing in the office of the Secretary of State a certificate, signed
3 by a general partner, detailing the change or changes. Any
4 individual or corporation designated by a foreign limited
5 partnership as its registered agent for service of process may
6 change the address of the registered office of the limited
7 partnership or limited partnerships for which he or she is the
8 registered agent to another address in this state by filing with the
9 Secretary of State a certificate in the name of each affected
10 corporation, executed and acknowledged by the registered agent,
11 setting forth the address at which the registered agent has
12 maintained the registered office, and further certifying to the new
13 address to which the registered office will be changed on a given
14 day, and at which new address the registered agent will thereafter
15 maintain the registered office. Thereafter, or until further change
16 of address, as authorized by law, the registered office in this
17 state shall be located at the new address of the registered agent
18 thereof as given in the certificate. At the time of filing of any
19 such certificate, a fee in the amount of Twenty-five Dollars
20 (\$25.00) shall be paid to the Secretary of State, except that the
21 maximum fee for simultaneous filings by a registered agent for more
22 than one partnership may not exceed One Thousand Dollars (\$1000.00).

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

1 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-18-09 - DO
2 PASS, As Amended and Coauthored.