

Assembly Bill No. 554

CHAPTER 364

An act to amend Sections 1502 and 2117 of the Corporations Code, and to amend, repeal, and add Section 12182 of the Government Code, relating to state government.

[Approved by Governor September 26, 2013. Filed with Secretary of State September 26, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 554, Mullin. State government: Secretary of State: fees.

(1) Existing law requires every corporation to file a specified statement of information with the Secretary of State and pay a \$5 disclosure fee in addition to any other required fees. Existing law requires one-half of the amount of this disclosure fee to be used for specified purposes, including the development and maintenance of an online database, and the other one-half to be deposited in the Victims of Corporate Fraud Compensation Fund.

This bill would instead require the first half of the disclosure fee to be deposited in the Business Programs Modernization Fund, which would be established by this bill. Moneys deposited in the fund would be made available, upon appropriation, to the Secretary of State of the purposes specified in existing law.

(2) Existing law states that it is the intent of the Legislature that moneys deposited into the Secretary of State's Business Fees Fund be used to support the programs from which the fees are collected and provides that they shall be expended to the extent that appropriations are made in the annual Budget Act.

Existing law authorizes the Secretary of State to charge and collect fees for preclearance of documents and expedited filings if the special handling does not cause disruption or delay in the process of the normal handling of documents, and if the implementation of the special handling is supported by an appropriation in the annual Budget Act. Existing law also specifies that copying and special handling fees shall be accounted as Secretary of State expenditure reimbursements.

This bill would instead provide that, operative July 1, 2014, copying and special handling fees be paid into the Secretary of State's Business Fees Fund and would delete the requirement that the implementation of special handling be supported by an appropriation in the annual Budget Act.

The people of the State of California do enact as follows:

SECTION 1. Section 1502 of the Corporations Code is amended to read:

1502. (a) Every corporation shall file, within 90 days after the filing of its original articles and annually thereafter during the applicable filing period, on a form prescribed by the Secretary of State, a statement containing all of the following:

- (1) The name of the corporation and the Secretary of State's file number.
- (2) The names and complete business or residence addresses of its incumbent directors.
- (3) The number of vacancies on the board, if any.
- (4) The names and complete business or residence addresses of its chief executive officer, secretary, and chief financial officer.
- (5) The street address of its principal executive office.
- (6) The mailing address of the corporation, if different from the street address of its principal executive office.
- (7) If the address of its principal executive office is not in this state, the street address of its principal business office in this state, if any.
- (8) If the corporation chooses to receive renewal notices and any other notifications from the Secretary of State by electronic mail instead of by United States mail, the corporation shall include a valid electronic mail address for the corporation or for the corporation's designee to receive those notices.
- (9) A statement of the general type of business that constitutes the principal business activity of the corporation (for example, manufacturer of aircraft; wholesale liquor distributor; or retail department store).

(b) The statement required by subdivision (a) shall also designate, as the agent of the corporation for the purpose of service of process, a natural person residing in this state or a corporation that has complied with Section 1505 and whose capacity to act as an agent has not terminated. If a natural person is designated, the statement shall set forth that person's complete business or residence street address. If a corporate agent is designated, no address for it shall be set forth.

(c) If there has been no change in the information in the last filed statement of the corporation on file in the Secretary of State's office, the corporation may, in lieu of filing the statement required by subdivisions (a) and (b), advise the Secretary of State, on a form prescribed by the Secretary of State, that no changes in the required information have occurred during the applicable filing period.

(d) For the purposes of this section, the applicable filing period for a corporation shall be the calendar month during which its original articles were filed and the immediately preceding five calendar months. The Secretary of State shall provide a notice to each corporation to comply with this section approximately three months prior to the close of the applicable filing period. The notice shall state the due date for compliance and shall be sent to the last address of the corporation according to the records of the Secretary of State or to the last electronic mail address according to the

records of the Secretary of State if the corporation has elected to receive notices from the Secretary of State by electronic mail. The failure of the corporation to receive the notice is not an excuse for failure to comply with this section.

(e) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation must file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the articles as to the agent for service of process and the address of the agent.

(f) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement.

(g) This section shall not be construed to place any person dealing with the corporation on notice of, or under any duty to inquire about, the existence or content of a statement filed pursuant to this section.

(h) The statement required by subdivision (a) shall be available and open to the public for inspection. The Secretary of State shall provide access to all information contained in this statement by means of an online database.

(i) In addition to any other fees required, a corporation shall pay a five-dollar (\$5) disclosure fee when filing the statement required by subdivision (a). One-half of the fee shall, notwithstanding Section 12176 of the Government Code, be deposited into the Business Programs Modernization Fund established in subdivision (k), and one-half shall be deposited into the Victims of Corporate Fraud Compensation Fund established in Section 2280.

(j) A corporation shall certify that the information it provides pursuant to subdivisions (a) and (b) is true and correct. No claim may be made against the state for inaccurate information contained in the statements.

(k) There is hereby established the Business Programs Modernization Fund in the State Treasury. Moneys deposited into the fund shall, upon appropriation by the Legislature, be available to the Secretary of State to further the purposes of this section, including the development and maintenance of the online database required by subdivision (h), and by subdivision (c) of Section 2117.

SEC. 2. Section 2117 of the Corporations Code is amended to read:

2117. (a) Every foreign corporation (other than a foreign association) qualified to transact intrastate business shall file, within 90 days after the filing of its original statement and designation of foreign corporation and annually thereafter during the applicable filing period, on a form prescribed by the Secretary of State, a statement containing the following:

(1) The name of the corporation as registered in California and the California Secretary of State's file number.

(2) The names and complete business or residence addresses of its chief executive officer, secretary, and chief financial officer.

(3) The street address of its principal executive office.

(4) The mailing address of the corporation, if different from the street address of its principal executive office.

(5) The street address of its principal business office in this state, if any.

(6) If the corporation chooses to receive renewal notices and any other notifications from the Secretary of State by electronic mail instead of by United States mail, the corporation shall include a valid electronic mail address for the corporation or for the corporation's designee to receive those notices.

(7) A statement of the general type of business that constitutes the principal business activity of the corporation (for example, manufacturer of aircraft; wholesale liquor distributor; or retail department store).

(b) The statement required by subdivision (a) shall also designate, as the agent of the corporation for the purpose of service of process, a natural person residing in this state or a corporation that has complied with Section 1505 and whose capacity to act as the agent has not terminated. If a natural person is designated, the statement shall set forth the person's complete business or residence street address. If a corporate agent is designated, no address for it shall be set forth.

(c) The statement required by subdivision (a) shall be available and open to the public for inspection. The Secretary of State shall provide access to all information contained in the statement by means of an online database.

(d) In addition to any other fees required, a foreign corporation shall pay a five-dollar (\$5) disclosure fee upon filing the statement required by subdivision (a). One-half of the fee shall, notwithstanding Section 12176 of the Government Code, be deposited into the Business Programs Modernization Fund established in subdivision (k) of Section 1502, and one-half shall be deposited into the Victims of Corporate Fraud Compensation Fund established in Section 2280.

(e) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation shall file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the filing pursuant to Section 2105.

(f) Subdivisions (c), (d), (f), and (g) of Section 1502 apply to statements filed pursuant to this section, except that "articles" shall mean the filing pursuant to Section 2105, and "corporation" shall mean a foreign corporation.

SEC. 3. Section 12182 of the Government Code is amended to read:

12182. (a) The Secretary of State shall charge and collect fees as provided in this article and may also by regulation establish fees to be charged and collected for copying and special handling in connection with filing documents, issuing of certificates, and other services performed by the office.

(b) Except as provided in subdivision (c), the fees shall approximate the estimated cost of copying and special handling.

(c) Fees charged for preclearance of documents and expedited filings may be in different amounts, which shall not exceed one thousand dollars (\$1,000). Those fees may be charged only if the special handling does not cause disruption or delay in the process of normal handling of documents, and if the implementation of the special handling is supported by an appropriation in the Budget Act.

(d) Copying and special handling fees shall be accounted as Secretary of State expenditure reimbursements.

(e) The preclearance or expedited filing of documents by the Secretary of State or his or her employees pursuant to this section shall be considered discretionary pursuant to Section 820.2.

(f) This section shall become inoperative on June 30, 2014, and, as of January 1, 2015, is repealed.

SEC. 4. Section 12182 is added to the Government Code, to read:

12182. (a) The Secretary of State shall charge and collect fees as provided in this article and may also by regulation establish fees to be charged and collected for copying and special handling in connection with filing documents, issuing of certificates, and other services performed by the office.

(b) Except as provided in subdivision (c), the fees shall approximate the estimated cost of copying and special handling.

(c) Fees charged for preclearance of documents and expedited filings may be in different amounts, that shall not exceed one thousand dollars (\$1,000). Those fees may be charged only if the special handling does not cause disruption or delay in the process of normal handling of documents.

(d) Copying and special handling fees shall be paid into the Secretary of State's Business Fees Fund.

(e) The preclearance or expedited filing of documents by the Secretary of State or his or her employees pursuant to this section shall be considered discretionary pursuant to Section 820.2.

(f) This section shall become operative commencing July 1, 2014.