

ASSEMBLY BILL

No. 2180

Introduced by Assembly Member Brown
(Coauthor: Assembly Member Medina)
(Coauthor: Senator Anderson)

February 20, 2014

An act to amend Sections 1502, 6210, 8210, 12570, and 17702.09 of the Corporations Code, and to amend Section 14101.6 of the Financial Code, relating to business filings.

LEGISLATIVE COUNSEL'S DIGEST

AB 2180, as introduced, Brown. Business filings: statement of information.

Existing law requires a corporation, a nonprofit public benefit corporation, a nonprofit mutual benefit corporation, a nonprofit religious corporation, a consumer cooperative corporation, other specified corporations, a limited liability company, and a credit union, to file a return with the Franchise Tax Board within a specified period following the close of its taxable year, except as otherwise specifically provided, and to file annually or biennially, as provided, a statement with the Secretary of State containing specified information during the calendar month during which the organization's original articles were filed or during the immediately preceding 5 calendar months. Existing law requires the Secretary of State to provide notice to each organization to comply with this provision approximately 3 months prior to the close of the applicable filing period.

This bill would instead require those corporations, limited liability companies, and credit unions to file the statement with the Secretary of State during the calendar month of, or within the 5 months preceding,

the organization’s due date for filing its return, excluding extensions, with the Franchise Tax Board or if no return is required, by May 15, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

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

3 1502. (a) Every corporation shall file, within 90 days after the
4 filing of its original articles and annually thereafter during the
5 applicable filing period, on a form prescribed by the Secretary of
6 State, a statement containing all of the following:

7 (1) The name of the corporation and the Secretary of State’s
8 file number.

9 (2) The names and complete business or residence addresses of
10 its incumbent directors.

11 (3) The number of vacancies on the board, if any.

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

14 (5) The street address of its principal executive office.

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

17 (7) If the address of its principal executive office is not in this
18 state, the street address of its principal business office in this state,
19 if any.

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

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

29 (b) The statement required by subdivision (a) shall also
30 designate, as the agent of the corporation for the purpose of service
31 of process, a natural person residing in this state or a corporation
32 that has complied with Section 1505 and whose capacity to act as

1 an agent has not terminated. If a natural person is designated, the
2 statement shall set forth that person's complete business or
3 residence street address. If a corporate agent is designated, no
4 address for it shall be set forth.

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

12 (d) For the purposes of this section, the applicable filing period
13 for a corporation shall be the calendar month during which ~~its~~
14 ~~original articles were filed~~ *the corporation is required to file a*
15 *return with the Franchise Tax Board, as required by Article 2*
16 *(commencing with Section 18601) of Chapter 2 of Part 10.2 of*
17 *Division 2 of the Revenue and Taxation Code* and the immediately
18 preceding five calendar months, *excluding extensions*. The
19 Secretary of State shall provide a notice to each corporation to
20 comply with this section approximately three months prior to the
21 close of the applicable filing period. The notice shall state the due
22 date for compliance and shall be sent to the last address of the
23 corporation according to the records of the Secretary of State or
24 to the last electronic mail address according to the records of the
25 Secretary of State if the corporation has elected to receive notices
26 from the Secretary of State by electronic mail. The failure of the
27 corporation to receive the notice is not an excuse for failure to
28 comply with this section.

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

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

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

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

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

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

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

30 SEC. 2. Section 6210 of the Corporations Code is amended to
31 read:

32 6210. (a) Every corporation shall, within 90 days after the
33 filing of its original articles and biennially thereafter during the
34 applicable filing period, file, on a form prescribed by the Secretary
35 of State, a statement containing: (1) the name of the corporation
36 and the Secretary of State’s file number; (2) the names and
37 complete business or residence addresses of its chief executive
38 officer, secretary, and chief financial officer; (3) the street address
39 of its principal office in this state, if any; (4) the mailing address
40 of the corporation, if different from the street address of its

1 principal executive office or if the corporation has no principal
2 office address in this state; and (5) if the corporation chooses to
3 receive renewal notices and any other notifications from the
4 Secretary of State by electronic mail instead of by United States
5 mail, a valid electronic mail address for the corporation or for the
6 corporation's designee to receive those notices.

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

16 (c) For the purposes of this section, the applicable filing period
17 for a corporation shall be the calendar month during which ~~its~~
18 ~~original articles were filed~~ *the corporation is required to file a*
19 *return with the Franchise Tax Board, as required by Article 3*
20 *(commencing with Section 23771) of Chapter 4 of Part 11 of*
21 *Division 2 of the Revenue and Taxation Code and the immediately*
22 *preceding five calendar months, excluding extensions. If the*
23 *corporation is not required to file a return with the Franchise Tax*
24 *Board, then the applicable filing period is May 15 and the*
25 *immediately preceding five calendar months. The Secretary of*
26 State shall provide a notice to each corporation to comply with
27 this section approximately three months prior to the close of the
28 applicable filing period. The notice shall state the due date for
29 compliance and shall be sent to the last address of the corporation
30 according to the records of the Secretary of State or to the last
31 electronic mail address according to the records of the Secretary
32 of State if the corporation has elected to receive notices from the
33 Secretary of State by electronic mail. Neither the failure of the
34 Secretary of State to send the notice nor the failure of the
35 corporation to receive it is an excuse for failure to comply with
36 this section.

37 (d) Whenever any of the information required by subdivision
38 (a) is changed, the corporation may file a current statement
39 containing all the information required by subdivisions (a) and
40 (b). In order to change its agent for service of process or the address

1 of the agent, the corporation must file a current statement
2 containing all the information required by subdivisions (a) and
3 (b). Whenever any statement is filed pursuant to this section, it
4 supersedes any previously filed statement and the statement in the
5 articles as to the agent for service of process and the address of
6 the agent.

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

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

14 SEC. 3. Section 8210 of the Corporations Code is amended to
15 read:

16 8210. (a) Every corporation shall, within 90 days after the
17 filing of its original articles and biennially thereafter during the
18 applicable filing period, file, on a form prescribed by the Secretary
19 of State, a statement containing: (1) the name of the corporation
20 and the Secretary of State's file number; (2) the names and
21 complete business or residence addresses of its chief executive
22 officer, secretary, and chief financial officer; (3) the street address
23 of its principal office in this state, if any; (4) the mailing address
24 of the corporation, if different from the street address of its
25 principal executive office or if the corporation has no principal
26 office address in this state; and (5) if the corporation chooses to
27 receive renewal notices and any other notifications from the
28 Secretary of State by electronic mail instead of by United States
29 mail, a valid electronic mail address for the corporation or for the
30 corporation's designee to receive those notices.

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

1 (c) For the purposes of this section, the applicable filing period
2 for a corporation shall be the calendar month during which ~~its~~
3 ~~original articles were filed~~ *the corporation is required to file a*
4 *return with the Franchise Tax Board, as required by Article 3*
5 *(commencing with Section 23771) of Chapter 4 of Part 11 of*
6 *Division 2 of the Revenue and Taxation Code and the immediately*
7 *preceding five calendar months, excluding extensions. The*
8 *Secretary of State shall provide a notice to each corporation to*
9 *comply with this section approximately three months prior to the*
10 *close of the applicable filing period. The notice shall state the due*
11 *date for compliance and shall be sent to the last address of the*
12 *corporation according to the records of the Secretary of State or*
13 *to the last electronic mail address according to the records of the*
14 *Secretary of State if the corporation has elected to receive notices*
15 *from the Secretary of State by electronic mail. Neither the failure*
16 *of the Secretary of State to send the notice nor the failure of the*
17 *corporation to receive it is an excuse for failure to comply with*
18 *this section.*

19 (d) Whenever any of the information required by subdivision
20 (a) is changed, the corporation may file a current statement
21 containing all the information required by subdivisions (a) and
22 (b). In order to change its agent for service of process or the address
23 of the agent, the corporation must file a current statement
24 containing all the information required by subdivisions (a) and
25 (b). Whenever any statement is filed pursuant to this section, it
26 supersedes any previously filed statement and the statement in the
27 articles as to the agent for service of process and the address of
28 the agent.

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

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

36 SEC. 4. Section 12570 of the Corporations Code is amended
37 to read:

38 12570. (a) Every corporation shall, within 90 days after the
39 filing of its original articles and annually thereafter during the
40 applicable filing period in each year, file, on a form prescribed by

1 the Secretary of State, a statement containing: (1) the name of the
2 corporation and the Secretary of State's file number; (2) the names
3 and complete business or residence addresses of its chief executive
4 officer or general manager, secretary, and chief financial officer;
5 (3) the street address of its principal office in this state, if any; (4)
6 the mailing address of the corporation, if different from the street
7 address of its principal office in this state; and (5) if the corporation
8 chooses to receive renewal notices and any other notifications from
9 the Secretary of State by electronic mail instead of by United States
10 mail, the corporation shall include a valid electronic mail address
11 for the corporation or for the corporation's designee to receive
12 those notices.

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

21 (c) For the purposes of this section, the applicable filing period
22 for a corporation shall be the calendar month during which ~~its~~
23 ~~original articles were filed~~ *the corporation is required to file a*
24 *return with the Franchise Tax Board, as required by Chapter 11*
25 *(commencing with Section 23771) of Part 10.2 of Division 2 of the*
26 *Revenue and Taxation Code* and the immediately preceding five
27 calendar months, *excluding extensions*. The Secretary of State shall
28 provide a notice to each corporation to comply with this section
29 approximately three months prior to the close of the applicable
30 filing period. The notice shall state the due date for compliance
31 and shall be sent to the last address of the corporation according
32 to the records of the Secretary of State or to the last electronic mail
33 address according to the records of the Secretary of State if the
34 corporation has elected to receive notices from the Secretary of
35 State by electronic mail. Neither the failure of the Secretary of
36 State to send the notice nor the failure of the corporation to receive
37 it is an excuse for failure to comply with this section.

38 (d) Whenever any of the information required by subdivision
39 (a) is changed, the corporation may file a current statement
40 containing all the information required by subdivisions (a) and

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

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

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

15 SEC. 5. Section 17702.09 of the Corporations Code is amended
16 to read:

17 17702.09. (a) Every limited liability company and every
18 foreign limited liability company registered to transact intrastate
19 business in this state shall deliver to the Secretary of State for filing
20 within 90 days after the filing of its original articles of organization
21 or registering to transact intrastate business and biennially
22 thereafter during the applicable filing period, on a form prescribed
23 by the Secretary of State, a statement of information containing:

24 (1) The name of the limited liability company and the Secretary
25 of State's file number and, in the case of a foreign limited liability
26 company, the name under which the foreign limited liability
27 company is authorized to transact intrastate business in this state
28 and the state or other jurisdiction under the laws of which it is
29 organized.

30 (2) The name and street address of the agent in this state for
31 service of process required to be maintained pursuant to Section
32 17701.13. If a corporate agent is designated, only the name of the
33 agent shall be set forth.

34 (3) The street address of its principal office. In the case of a
35 foreign limited liability company, the street address of its principal
36 business office in this state, if any, and, in the case of a domestic
37 limited liability company, the street address of the office required
38 to be maintained pursuant to Section 17701.13.

39 (4) The mailing address of the limited liability company or
40 foreign limited liability company, if different from the street

1 address of its principal office, or principal business office in this
2 state, or, in the case of a domestic limited liability company, the
3 street address of the office required to be maintained pursuant to
4 Section 17701.13.

5 (5) The name and complete business or residence addresses of
6 any manager or managers and the chief executive officer, if any,
7 appointed or elected in accordance with the articles of organization
8 or operating agreement or, if no manager has been so elected or
9 appointed, the name and business or residence address of each
10 member.

11 (6) If the limited liability company or foreign limited liability
12 company chooses to receive renewal notices and any other
13 notifications from the Secretary of State by electronic mail instead
14 of by United States mail, the limited liability company or foreign
15 limited liability company shall include a valid electronic mail
16 address for the limited liability company or foreign limited liability
17 company, or for the limited liability company's or foreign limited
18 liability company's designee to receive those notices.

19 (7) The general type of business that constitutes the principal
20 business activity of the limited liability company or foreign limited
21 liability company, such as, for example, manufacture of aircraft,
22 wholesale liquor distributor, or retail department store.

23 (b) If there has been no change in the information contained in
24 the last filed statement of information of the limited liability
25 company or foreign limited liability company on file in the office
26 of Secretary of State, the limited liability company or foreign
27 limited liability company may, in lieu of filing the statement of
28 information required by subdivision (a), advise the Secretary of
29 State, on a form prescribed by the Secretary of State, that no
30 changes in the required information have occurred during the
31 applicable filing period.

32 (c) For purposes of this section, the applicable filing period for
33 a limited liability company *or a foreign limited liability company*
34 shall be the calendar month during which ~~its original articles of~~
35 ~~organization was filed or, in the case of a foreign limited liability~~
36 ~~company, the month during which its application for registration~~
37 ~~was filed, the limited liability company or foreign limited liability~~
38 *company is required to file a return with the Franchise Tax Board,*
39 *as required by Chapter 2 (commencing with Section 18501) of*
40 *Part 10.2 of Division 2 of the Revenue and Taxation Code and the*

1 immediately preceding five calendar months, *excluding extensions*.
2 The Secretary of State shall provide a notice to each limited
3 liability company or foreign limited liability company to comply
4 with this section approximately three months prior to the close of
5 the applicable filing period. The notice shall state the due date for
6 compliance and shall be sent to the last mailing address of the
7 limited liability company or foreign limited liability company
8 according to the records of the Secretary of State, or if none, to
9 the street address of the principal office, or, in the case of a
10 domestic limited liability company, the office required to be
11 maintained pursuant to Section 17701.13, or to the last electronic
12 mail address according to the records of the Secretary of State if
13 the limited liability company or foreign limited liability company
14 has elected to receive notices from the Secretary of State by
15 electronic mail. The failure of the limited liability company or
16 foreign limited liability company to receive the notice shall not
17 exempt the limited liability company or foreign limited liability
18 company from complying with this section.

19 (d) Whenever any of the information required by subdivision
20 (a) changes, other than the name and address of the agent for
21 service of process, the limited liability company or foreign limited
22 liability company may file a current statement containing all the
23 information required by subdivision (a). When changing its agent
24 for service of process or when the address of the agent changes,
25 the limited liability company or foreign limited liability company
26 shall file a current statement containing all the information required
27 by subdivision (a). Whenever any statement is filed pursuant to
28 this section, that statement supersedes any previously filed
29 statement pursuant to this section, the statement in the original
30 articles of organization, and the statement in any previously filed
31 amended or restated articles of organization that have been filed,
32 or in the case of a foreign limited liability company, in the
33 application for registration.

34 (e) If a statement of information delivered to the Secretary of
35 State for filing under this section does not contain the information
36 required by subdivision (a), the Secretary of State shall promptly
37 return the statement of information to the reporting limited liability
38 company or foreign limited liability company for correction.

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

4 SEC. 6. Section 14101.6 of the Financial Code is amended to
5 read:

6 14101.6. (a) Every credit union shall, within 90 days after the
7 filing of its original articles and annually thereafter during the
8 applicable filing period in each year, file, in a form prescribed by
9 the Secretary of State, a statement containing: (1) the name of the
10 credit union and the Secretary of State's file number; (2) the names
11 and complete business or residence addresses of its chief executive
12 officers, secretary, and chief financial officer; (3) the street address
13 of its principal office, if any; (4) if the credit union chooses to
14 receive renewal notices and any other notifications from the
15 Secretary of State by electronic mail instead of by United States
16 mail, a valid electronic mail address for the credit union or for the
17 credit union's designee to receive those notices; and (5) the mailing
18 address of the credit union, if different from the street address of
19 its principal office.

20 (b) The statement required by subdivision (a) shall also
21 designate, as the agent of the credit union for the purpose of service
22 of process, a natural person residing in this state or any domestic
23 or foreign business corporation that has complied with Section
24 1505 of the Corporations Code and whose capacity to act as an
25 agent has not terminated. If a natural person is designated, the
26 statement shall set forth that person's complete business or
27 residence street address. If a corporate agent is designated, no
28 address for it shall be set forth.

29 (c) For the purposes of this section, the applicable filing period
30 for a credit union shall be the calendar month during which ~~its~~
31 ~~original articles were filed~~ *the credit union is required to file a*
32 *return with the Franchise Tax Board, as required by Chapter 11*
33 *(commencing with Section 23771) of Part 10.2 of Division 2 of the*
34 *Revenue and Taxation Code* and the immediately preceding five
35 calendar months, *excluding extensions*. The Secretary of State shall
36 provide a notice to each credit union to comply with this section
37 approximately three months prior to the close of the applicable
38 filing period. The notice shall state the due date for compliance
39 and shall be sent to the last address of the credit union according
40 to the records of the Secretary of State if the credit union has

1 elected to receive notices from the Secretary of State by electronic
2 mail. Neither the failure of the Secretary of State to provide the
3 notice nor the failure of the credit union to receive it is an excuse
4 for failure to comply with this section.

5 (d) Whenever any of the information required by subdivision
6 (a) is changed, the credit union may file a current statement
7 containing all the information required thereby. In order to change
8 its agent for service of process or the address of the agent, the
9 corporation must file a current statement containing all the
10 information required by subdivisions (a) and (b). Whenever any
11 statement is filed pursuant to this section, it supersedes any
12 previously filed statement and the statement in the articles as to
13 the agent for service of process and the address of the agent.

14 (e) An agent designated for service of process pursuant to
15 subdivision (b) may file a signed and acknowledged written
16 statement of resignation as such agent. Thereupon the authority
17 of the agent to act in such capacity shall cease and the Secretary
18 of State forthwith shall notify the credit union of the filing of the
19 statement of resignation.

20 (f) If a natural person who has been designated agent for service
21 of process pursuant to subdivision (b) dies or resigns or no longer
22 resides in the state, or if the corporate agent for such purpose
23 resigns, dissolves, withdraws from the state, forfeits its right to
24 transact intrastate business, has its corporate rights, powers, and
25 privileges suspended or ceases to exist, the credit union shall
26 forthwith file a new statement designating a new agent conforming
27 to the requirements of subdivision (a).

28 (g) Under regulations adopted by the Secretary of State, the
29 resignation of an agency may be effective if the agent disclaims
30 having been properly appointed as the agent.

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

34 (i) This section shall not be construed to place any person
35 dealing with the credit union on notice of or in any duty to inquire
36 about the existence or content of the statement filed pursuant to
37 this section.

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