WEST VIRGINIA CODE: §47-9-10A

§47-9-10a. Administrative dissolution of a limited partnership; reinstatement; appeals.

(a) The Secretary of State may commence a proceeding to administratively dissolve a limited partnership if the limited partnership does not:

(1) Pay all applicable fees, franchise taxes, or penalties imposed by this chapter or other law within 60 days after the due date;

(2) Deliver its annual or biennial report to the Secretary of State within 60 days after the due date;

(3) The professional license of one or more of the license holders is revoked by a professional licensing board and the license is required for the continued operation of the limited partnership;

(4) The limited partnership is in default with the Bureau of Employment Programs as provided in §21A-2-6 of this code; or

(5) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the limited partnership pursuant to this chapter.

(b) If the Secretary of State determines that adequate grounds exist to administratively dissolve a limited partnership, the Secretary of State shall make and file a record of the determination and serve the limited partnership with a notice of the determination along with a copy of the record by certified mail.

(1)(A) The limited partnership must correct each issue described in the dissolution record or take reasonable steps toward correcting each issue within 60 days of service of the record on the limited partnership.

(B) If the limited partnership fails to take adequate steps toward correcting the issue or issues described in the record, the Secretary of State may administratively dissolve the limited partnership by signing the certification of dissolution.

(C) The Secretary of State shall file the original certificate of dissolution and serve a copy of the certificate of dissolution to the limited partnership by certified mail.

(2) A limited partnership that has been administratively dissolved may continue its existence only to the extent necessary to wind up and liquidate its business and affairs.

(3) The administrative dissolution of a limited partnership does not terminate the authority of its agent for service of process.

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(c) A limited partnership that has been administratively dissolved may apply to the Secretary of State for reinstatement within two years after the effective date of dissolution. The application for reinstatement shall:

(1) Recite the name of the limited partnership and the effective date of its administrative dissolution;

(2) Demonstrate that the grounds for dissolution either did not exist or have been eliminated;

(3) Demonstrate that the limited partnership's name satisfies the requirements of §47-9-2 of this code; and

(4) Contain a certificate from the Tax Commissioner reciting that all taxes owed by the limited partnership have been paid.

(d)(1) If the Secretary of State determines that the application for reinstatement contains the information required by subsection (c) of this section and that the information is accurate, the Secretary of State shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites this determination and the effective date of reinstatement.

(2) The Secretary of State shall file the certificate of reinstatement and serve the limited partnership with a copy of the certificate.

(e) When the Secretary of State grants a reinstatement, the reinstatement relates back to and takes effect as of the effective date of the administrative dissolution and the limited partnership resumes its business as if the administrative dissolution had never occurred.

(f) If the Secretary of State denies a limited partnership's application for reinstatement following administrative dissolution, the Secretary of State shall serve the limited partnership with a notice that explains the reason or reasons for denial.

(g) A limited partnership may appeal a denial of reinstatement by filing a petition to set aside the dissolution in the circuit court of Kanawha County within 30 days after the date upon which the limited partnership received notice of the denial of reinstatement. The petition shall include a copy of the Secretary of State's certificate of dissolution, the limited partnership's application for reinstatement and, the Secretary of State's notice of denial. A copy of the petition shall be served on the Secretary of State by certified mail.

(h) If a reinstatement is granted by the court, the reinstatement relates back to and takes effect as of the effective date of the administrative dissolution and the limited partnership resumes its business as if the administrative dissolution had never occurred.

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