WEST VIRGINIA LEGISLATURE
Regular Session, 2001

ENROLLED
Committee Substitute for Committee Substitute for
SENATE BILL NO. 479

(By Senators Tamblin, Mr. President, et al)

PASSED April 14, 2001

In Effect July 1, 2001
AN ACT to amend and reenact section five, article twelve-c, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section twelve, article four, chapter twenty-nine of said code; to amend and reenact sections five, nine and fifteen-b, article nineteen of said chapter; to amend and reenact section seven, article two, chapter twenty-nine-a of said code; to amend article one, chapter twenty-nine-c of said code by adding thereto a new section, designated section one hundred seven;
to amend and reenact section one hundred eight, article one, chapter thirty-one-b of said code; to amend and reenact section twelve, article four, chapter thirty-three of said code; to amend and reenact section five, article six-c, chapter forty-six-a of said code; to amend and reenact section seventeen, article two, chapter forty-seven of said code; to amend and reenact section one, article ten, chapter forty-seven-b of said code; and to amend and reenact section two, article one, chapter fifty-nine of said code, all relating to fees and charges for services of the secretary of state; the deposit of those fees; and creating an appropriated special revenue account.

Be it enacted by the Legislature of West Virginia:

That section five, article twelve-c, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section twelve, article four, chapter twenty-nine of said code be amended and reenacted; that sections five, nine and fifteen-b, article nineteen of said chapter be amended and reenacted; that section seven, article two, chapter twenty-nine-a of said code be amended and reenacted; that article one, chapter twenty-nine-c of said code be amended by adding thereto a new section, designated section one hundred seven; that section one hundred eight, article one, chapter thirty-one-b of said code be amended and reenacted; that section twelve, article four, chapter thirty-three of said code be amended and reenacted; that section five, article six-c, chapter forty-six-a of said code be amended and reenacted; that section seventeen, article two, chapter forty-seven of said code be amended and reenacted; that section one, article ten, chapter forty-seven-b of said code be amended and reenacted; and that section two, article one, chapter fifty-nine of said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 12C. CORPORATE LICENSE TAX.

§11-12C-5. Annual fee of secretary of state as attorney-in-fact.
Every domestic and foreign corporation and every domestic and foreign limited partnership shall pay an annual fee of twenty-five dollars for the services of the secretary of state as attorney-in-fact for the corporation or limited partnership, which fee is due and payable at the initial registration of the corporation and limited partnership and every year thereafter with the same return, collected by the same officers, and accounted for in the same way as the annual license tax imposed on corporations under this article. The tax commissioners shall deposit one-half of all attorney-in-fact fees collected under this section in the state general revenue fund and one-half of the fees in the service fees and collections account established by section two, article one, chapter fifty-nine of this code for the operation of the office of the secretary of state. Any balance of attorney-in-fact fees previously collected by the commissioner on behalf of the secretary of state as provided by chapter two hundred five, acts of the Legislature, regular session one thousand nine hundred ninety-two, and remaining in the account to which those deposits were made by the commissioner on or before the thirtieth day of June, two thousand one, shall be transferred to the service fees and collections account established by section two, article one, chapter fifty-nine of this code for the operation of the office of the secretary of state. The secretary of state shall dedicate sufficient resources from that fund or other funds to provide the services required in this article.

CHAPTER 29. MISCELLANEOUS BOARDS

AND OFFICERS.

ARTICLE 4. NOTARIES PUBLIC AND COMMISSIONERS.

§29-4-12. Commissioners out of state; qualifications; fee.

The governor, if he or she considers it proper, may appoint any persons residing within or without this state
and within the United States, its territories or possessions
as commissioners to acknowledge signatures performed in
or out of state by persons residing in or out of the state of
West Virginia covering deeds, leases and other writings
pertaining to West Virginia property for recordation in the
state of West Virginia. The commissioners shall hold office
for ten years, unless sooner removed by the governor.
Before performing any duties as a commissioner, the
commissioner shall enter into a bond in the penalty sum of
one thousand dollars with corporate surety to be approved
by the secretary of state and filed in his or her office. A
fee of one hundred dollars for each commission issued
shall be paid to the secretary of state. All fees and moneys
collected by the secretary of state pursuant to the provi-
sions of this article shall be deposited by the secretary of
state as follows: One-half shall be deposited in the state
general revenue fund and one-half shall be deposited in
the service fees and collections account established by
section two, article one, chapter fifty-nine of this code for
the operation of the office of the secretary of state. The
secretary of state shall dedicate sufficient resources from
that fund or other funds to provide the services required in
this article.

ARTICLE 19. SOLICITATION OF CHARITABLE FUNDS ACT.

§29-19-5. Registration of charitable organizations; fee.

(a) Every charitable organization, except as provided in
section six of this article, which intends to solicit contribu-
tions within this state or to have funds solicited on its
behalf shall, prior to any solicitation, file a registration
statement with the secretary of state upon forms pre-
scribed by him or her which shall be good for one full year
and which shall be refiled in the next and each following
year in which the charitable organization is engaged in
solicitation activities. If an organization discontinues
solicitation at any time after its last registration filing,
then it shall file a registration statement reflecting its
activities during its last fiscal year in which solicitation in
West Virginia took place. It is the duty of the president, chairman or principal officer of the charitable organization to file the statements required under this article. The statements shall be sworn to and shall contain the following information:

1. The name of the organization and the purpose for which it was organized;

2. The principal address of the organization and the address of any offices in this state. If the organization does not maintain an office, the name and address of the person having custody of its financial records;

3. The names and addresses of any chapters, branches or affiliates in this state;

4. The place where and the date when the organization was legally established and the form of its organization;

5. The names and addresses of the officers, directors, trustees and the principal salaried executive staff officer;

6. A copy of a balance sheet and a statement or report of income and expenses for the organization’s immediately preceding fiscal year or a financial statement reporting information showing the kind and amount of funds raised during the preceding fiscal year, the costs and expenses incidental to the fund raising and showing how the funds were disbursed or allocated for the same fiscal year:

Provided, That for organizations raising more than fifty thousand dollars per year in contributions, the balance sheet and income and expense statement, or financial statement provided, shall be audited by an independent public accountant. Organizations are required to report the amount of money raised in the state and the amount spent in the state for charitable purposes;

7. A copy of any determination of the organization’s tax exempt status under the provisions of 26 U.S.C. §501(c)(3) and a copy of the last filed Internal Revenue Service form
990 and Schedule A for every charitable organization and any parent organization;

(8) Whether the organization intends to solicit contributions from the public directly or have other solicitation done on its behalf by others;

(9) Whether the organization is authorized by any other governmental authority to solicit contributions and whether it is or has ever been enjoined by any court from soliciting contributions;

(10) The general purpose or purposes for which the contributions to be solicited shall be used;

(11) The name or names under which it intends to solicit contributions;

(12) The names of the individuals or officers of the organization who will have final responsibility for the custody of the contributions;

(13) The names of the individuals or officers of the organization responsible for the final distribution of the contributions; and

(14) Copies of all contract documentation from professional fund-raising counsels and professional solicitors as provided for in subsection (d), section seven of this article.

(b) Each chapter, branch or affiliate, except an independent member agency of a federated fund-raising organization, may separately report the information required by this section or report the information to its parent organization which shall then furnish the information regarding its West Virginia affiliates, chapters and branches in a consolidated form to the secretary of state. An independent member agency of a federated fund-raising organization, as defined in section two of this article, shall comply with the provisions of this article independently. Each organization shall file a separate
registration form for each name under which funds will be solicited.

(c) The registration forms and any other documents prescribed by the secretary of state shall be signed by an authorized officer or by an independent public accountant and by the chief fiscal officer of the charitable organization and shall be verified under oath.

(d) Every charitable organization collecting less than one million dollars during any year which submits an independent registration to the secretary of state shall pay an annual registration fee of fifteen dollars; every charitable organization collecting more than one million dollars during one year which submits an independent registration to the secretary of state shall pay an annual registration fee of fifty dollars; and a parent organization filing on behalf of one or more chapters, branches or affiliates or a single organization filing under different names shall pay a single annual registration fee of fifty dollars for itself and the chapters, branches or affiliates included in the registration statement. All fees and moneys collected by the secretary of state pursuant to the provisions of this article shall be deposited by the secretary of state as follows: One-half shall be deposited in the state general revenue fund and one-half shall be deposited in the services fees and collections account established by section two, article one, chapter fifty-nine of this code for the operation of the office of the secretary of state. The secretary of state shall dedicate sufficient resources from that fund or other funds to provide the services required in this article.

(e) For good cause shown, the secretary of state may extend the due date for the annual filing of a registration statement or report for a period not to exceed ninety days. During that period, the previously filed registration statement or report of the charitable organization which has been granted the extension remains in effect.
(f) In addition to the registration fee required by this section, a charitable organization and/or professional fund-raiser, which fails to file a registration statement or report by the original or extended due date for filing as required by this section shall, for each month or part of the month thereafter in which the registration statement or report is not filed, pay an additional fee of twenty-five dollars: Provided, That the total amount of the additional fees for a registration statement or report required to be filed in any one year shall not exceed five hundred dollars. All fees and monies collected by the secretary of state pursuant to the provisions of this article shall be deposited by the secretary of state as follows: One-half shall be deposited in the state general revenue fund and one-half shall be deposited in the service fees and collections account established by section two, article one, chapter fifty-nine of this code for the operation of the office of the secretary of state. Any balance remaining on the thirtieth day of June, two thousand one, in the existing special revenue account entitled “charitable organization fund” as established by chapter thirty-four, acts of the Legislature, regular session, one thousand nine hundred ninety two, shall be transferred to the service fees and collections account established by section two, article one, chapter fifty-nine of this code for the operation of the secretary of state. The secretary of state shall dedicate sufficient resources from that fund or other funds to provide the services required in this article.

§29-19-9. Registration of professional fund-raising counsel and professional solicitor; bonds; records; books.

(a) No person may act as a professional fund-raising counsel or professional solicitor for a charitable organization subject to the provisions of this article unless he or she has first registered with the secretary of state. Applications for the registration shall be in writing under oath or affirmation in the form prescribed by the secretary of state and contain the information he or she requires. The
application for registration by professional fund-raising
counsel or professional solicitor shall be accompanied by
an annual fee in the sum of one hundred dollars. A part-
nership or corporation, which is a professional fund-
raising counsel or professional solicitor, may register for
and pay a single fee on behalf of all its members, officers,
agents and employees. However, the names and addresses
of all officers, agents and employees of professional fund-
raising counsel and all professional solicitors, their
officers, agents, servants or employees employed to work
under the direction of a professional solicitor shall be
listed in the application. All fees and moneys collected by
the secretary of state pursuant to the provisions of this
article shall be deposited by the secretary of state as
follows: One-half shall be deposited in the state general
revenue fund and one-half shall be deposited in the service
fees and collections account established by section two,
article one, chapter fifty-nine of this code for the operation
of the office of the secretary of state. The secretary of state
shall dedicate sufficient resources from that fund or other
funds to provide the services required in this article.

(b) The applicant shall, at the time of the making of an
application, file with and have approved by the secretary
of state a bond in which the applicant shall be the prin-
cipal obligor in the sum of ten thousand dollars and which
shall have one or more sureties satisfactory to the secre-
tary of state whose liability in the aggregate as such
sureties will at least equal the said sum and maintain the
bond in effect so long as a registration is in effect. The
bond shall run to the state for the use of the secretary of
state and any person who may have a cause of action
against the obligor of the bonds for any losses resulting
from malfeasance, nonfeasance or misfeasance in the
conduct of solicitation activities. A partnership or corpo-
ration which is a professional fund-raising counsel or
professional solicitor may file a consolidated bond on
behalf of all its members, officers and employees.
(c) Each registration is valid throughout the state for a period of one year and may be renewed for additional one-year periods upon written application under oath in the form prescribed by the secretary of state and the payment of the fee prescribed in this section.

(d) The secretary of state or his or her designee shall examine each application and if he or she finds it to be in conformity with the requirements of this article and all relevant rules and the registrant has complied with the requirements of this article and all relevant rules, he or she shall approve the registration.


In any action brought pursuant to the provisions of this article, if the court finds that intentional violations have occurred, the state, upon petition to the court and in addition to any damages awarded any party or parties, may recover attorney fees and a civil penalty not exceeding three times the amount collected in that civil action. Of any funds recovered as provided for in this section and any other funds recovered by the state as the result of an award for damages, penalties or settlements in enforcing this article, one-half shall be deposited in the state general revenue fund and one-half shall be deposited in the service fees and collections account established by section two, article one, chapter fifty-nine of this code for the operations of the office of the secretary of state. Any balance remaining on the thirtieth day of June, two thousand one, in the existing special revenue account entitled “charitable organization fund” as established by chapter thirty-four, acts of the Legislature, regular session, one thousand nine hundred ninety-two, shall be transferred to the service fees and collections account established by section two, article one, chapter fifty-nine of this code for the operations of the office of the secretary of state. The secretary of state shall dedicate sufficient resources from that fund or other funds to provide the services required in this article.
CHAPTER 29A. STATE ADMINISTRATIVE PROCEDURES ACT.

ARTICLE 2. STATE REGISTER.


(a) The Legislature intends that the secretary of state offer to the public convenient and efficient access to copies of the state register or parts of the state register desired by the citizens. The provisions of this section are enacted in order to provide a means of doing so pending any other means provided by law or legislative rule.

(b) All materials filed in the state register shall be indexed daily in chronological order of filing with a brief description of the item filed and a columnar cross index to: (1) Agency; (2) section, article and chapter of the code to which it relates and by which it is filed in the state register; and (3) any other information in the description or cross index as the secretary of state believes will aid a citizen in using the chronological index.

(c) To give users of the code of state rules a means to know whether the rule is being superseded by a version of the rule that has become effective, but not yet been final-filed, prepared, proofed and distributed, or may be superseded by a rule which is being proposed and promulgated pursuant to article three but not yet final, the secretary of state shall provide with each update of the code of state rules, a copy of the rule monitor and its cross index which shows the rules that have become effective but not yet distributed and the rules which may be superseded by a rule which is being proposed. The copy of the rule monitor distributed with the updates of the code of state rules shall state plainly that this version of the rule monitor only shows the status of the promulgation of rules as of the date of distribution of the update of the code of state rules and that to obtain the most recent status of the rules, the user should consult the rule monitor in the most recent publication of the state register. With the first distribution to
the loose-leaf version of the code of state rules, the
secretary of state shall also distribute a divider where the
current rule monitor shall be maintained. With the first
distribution, the secretary of state shall also include
instructions, with a copy for insertion in or on the front of
each volume of the loose-leaf versions of the code of state
rules, to users on how the rule monitor can be used to
determine whether the version of the rule in the code of
state rules is currently in effect. This subsection is not to
be construed to require that subscribers to the updates of
the code of state rules receive a subscription to the state
register.

(d) The secretary of state shall cause to be duplicated in
such number as is required, on white paper with two
punches suitable for fastening in two-ring binders, the
permanent biennial state register, the chronological index
and other materials filed in the register, or any part by
agency or section, article or chapter for subscription at a
cost including labor, paper and postage, sufficient in his or
her judgment to defray the expense of duplication. The
secretary of state shall also offer, at least at monthly
intervals, supplements to the published materials listed in
this subsection. Any subscription for monthly supplements
shall be offered annually and shall include the chronologi-
cal index and materials related to the agency or agencies,
or section, article or chapter of the code as a person may
designate. A person may limit the request to notices only,
to notices and rules or to notices and proposed rules, or
any combination thereof.

(e) Every two years, the secretary of state shall offer for
purchase succeeding biennial permanent state registers
which shall consist of all rules effective on the date of
publication selected by the secretary of state, which date
shall be at least two years from the last publication date
and materials filed in the state register relating to the
rules. The cost of the succeeding biennial permanent state
register and for the portion relating to any agency or any
section, article or chapter of the code which may be
designated by a person purchasing the same shall be fixed
in the same manner specified in section eleven of this
article.

(f) The secretary of state may omit from any duplication
made pursuant to subsection (e) of this section any rules
the duplication of which would be unduly cumbersome,
expensive or otherwise inexpedient, if a copy of the rules
is made available from the original filing of the rule, at a
price not exceeding the cost of duplication, and if the
volume from which the rule is omitted includes a notice in
that portion of the publication in which the rule would
have been located, stating: (1) The general subject matter
of the omitted rule; (2) each section, article and chapter of
this code to which the omitted rule relates; and (3) the
means by which a copy of the omitted rule may be ob-
tained.

(g) The secretary of state may propose changes to the
procedures outlined in subsection (f) of this section by
proposing a legislative rule under the provisions of section
nine, article three of this chapter, but may promulgate no
rules containing those changes unless authorized by the
Legislature pursuant to article three of this chapter.

(h) Beginning the first day of July, two thousand one,
one-half of the fees and amounts collected for the sale of
the state register, the code of state rules and other copies
or data provided by the secretary of state shall be depos-
ited in the state general revenue fund and one-half of the
fees in the service fees and collections account established
by section two, article one, chapter fifty-nine of this code
for the operations of the office of the secretary of state.
Any balance remaining on the thirtieth day of June, two
dozen, in the existing special revenue account
entitled "state register" as established by chapter one
hundred twenty-one, acts of the Legislature, regular
session, one thousand nine hundred eighty-two, shall be
transferred to the service fees and collections account.
CHAPTER 29C. UNIFORM NOTARY ACT.

ARTICLE 1. GENERAL PROVISIONS.

§29C-1-107. Disposition of fees.

All fees and moneys collected by the secretary of state pursuant to the provisions of this article shall be deposited by the secretary of state as follows: One-half shall be deposited in the state general revenue fund and one-half shall be deposited in the service fees and collections account established by section two, article one, chapter fifty-nine of this code for the operation of the office of the secretary of state. The secretary of state shall dedicate sufficient resources from that fund or other funds to provide the services required in this article.

CHAPTER 31B. UNIFORM LIMITED LIABILITY COMPANY ACT.

ARTICLE 1. GENERAL PROVISIONS.

§31B-1-108. Designated office and agent for service of process.

(a) A limited liability company and a foreign limited liability company authorized to do business in this state shall designate and continuously maintain in this state:

(1) An office, which need not be a place of its business in this state; and

(2) An agent and street address of the agent for service of process on the company.

(b) An agent shall be an individual resident of this state, a domestic corporation, another limited liability company
(c) Every limited liability company shall pay an annual fee of twenty-five dollars for the services of the secretary of state as attorney-in-fact for the limited liability company, which fee shall be due and payable at the initial registration of the limited liability company and every year thereafter the same time that the annual report required under section two hundred eleven, article two of this chapter is due and one-half of each fee shall be deposited in the state fund, general revenue and one-half of the fees in the service fees and collections account established by section two, article one, chapter fifty-nine of this code for the operation of the office of the secretary of state. The secretary of state shall dedicate sufficient resources from that fund or other funds to provide the services required in this chapter.

(d) The secretary of state shall keep a record of all processes, notices and demands served pursuant to this section and record the time of and the action taken regarding the service.

(e) This section does not affect the right to serve process, notice or demand in any manner otherwise provided by law.

CHAPTER 33. INSURANCE.

ARTICLE 4. GENERAL PROVISIONS.

§33-4-12. Service of process on licensed insurers.

The secretary of state shall be, and is hereby constituted, the attorney-in-fact of every licensed insurer, domestic, foreign or alien, transacting insurance in this state, upon whom all legal process in any action, suit or proceeding against it shall be served and he or she may accept service of the process. The process shall be served upon the secretary of state, or accepted by him or her, in the same
manner as provided for service of process upon unlicensed insurers under subdivisions (2) and (3), subsection (b), section thirteen of this article. Each licensed insurer shall pay to the secretary of state an annual fee of twenty-five dollars for services as authorized agent for service of process, one-half of which shall be deposited in the state fund, general revenue and one-half of the fees in the service fees and collections account established by section two, article one, chapter fifty-nine of this code for the operation of the office of the secretary of state.

CHAPTER 46A. WEST VIRGINIA CONSUMER CREDIT AND PROTECTION ACT.

ARTICLE 6C. CREDIT SERVICES ORGANIZATIONS.

§46A-6C-5. Registration.

(a) A credit services organization shall file a registration statement with the secretary of state before conducting business in this state. The registration statement shall contain:

(1) The name and address of the credit services organization; and

(2) The name and address of any person who directly or indirectly owns or controls ten percent or more of the outstanding shares of stock in the credit services organization.

(b) The registration statement shall also contain either:

(1) A full and complete disclosure of any litigation or unresolved complaint filed with a governmental authority of this state relating to the operation of the credit services organization; or

(2) A notarized statement that states that there has been no litigation or unresolved complaint filed with a governmental authority of this state relating to the operation of the credit services organization.
(c) The credit services organization shall update the statement not later than the ninetieth day after the date on which a change in the information required in the statement occurs.

(d) Each credit services organization registering under this section shall maintain a copy of the registration statement in the files of the credit services organization.

The credit services organization shall allow a buyer to inspect the registration statement on request.

(e) The secretary of state may charge each credit services organization that files a registration statement with the secretary of state a reasonable fee not to exceed one hundred dollars to cover the cost of filing. The secretary of state may not require a credit services organization to provide information other than that provided in the registration statement. All fees and moneys collected by the secretary of state pursuant to the provisions of this article shall be deposited by the secretary of state as follows: One-half shall be deposited in the state fund, general revenue and one-half shall be deposited in the service fees and collections account established by section two, article one, chapter fifty-nine of this code for the operation of the office of the secretary of state. The secretary of state shall dedicate sufficient resources from that fund or other funds to provide the services required in this article.

(f) The bond or surety account shall be maintained until two years after the date that the credit services organization ceases operations.

CHAPTER 47. REGULATION OF TRADE.

ARTICLE 2. TRADEMARKS IN GENERAL.

§47-2-17. Fees.

(a) The secretary shall charge the following fees for services provided pursuant to the provisions of this article:
(1) For an application fee and for a renewal fee, fifty dollars; and

(2) For recording any instrument specified in section seven of this article, twenty-five dollars.

(b) One-half of each fee shall be deposited in the state fund, general revenue and one half of the fee shall be deposited in the service fees and collections account established by section two, article one, chapter fifty-nine of this code for the operation of the office of the secretary of state. Any balance remaining on the thirtieth day of June, two thousand one, in the existing special revenue account entitled "trademarks" as established by chapter two hundred forty-nine, acts of the Legislature, regular session, one thousand nine hundred ninety-six, shall be transferred to the service fees and collections account established by section two, article one, chapter fifty-nine of this code for the operation of the office of the secretary of state. The secretary of state shall dedicate sufficient resources from that fund or other funds to provide the services required in this article.

CHAPTER 47B. UNIFORM PARTNERSHIP ACT.

ARTICLE 10. LIMITED LIABILITY PARTNERSHIPS.

§47B-10-1. Registered limited liability partnerships.

(a) To become a registered limited liability partnership, a partnership shall file with the secretary of state a statement of registration stating the name of the partnership; the address of its principal office; if the partnership's principal office is not located in this state, the address of a registered office and the name and address of a registered agent for service of process in this state, which the partnership will be required to maintain; a brief statement of the business in which the partnership engages; any other matters that the partnership determines to include; and that the partnership thereby registers as a registered limited liability partnership.
(b) The registration shall be executed by one or more partners authorized to execute a registration.

(c) The registration shall be accompanied by a fee of two hundred fifty dollars.

(d) The secretary of state shall register as a registered limited liability partnership any partnership that submits a completed registration with the required fee.

(e) A partnership registered under this section shall pay, in each year following the year in which its registration is filed, on a date specified by the secretary of state, an annual fee of five hundred dollars. The fee shall be accompanied by a notice, on a form provided by the secretary of state, of any material changes in the information contained in the partnership's registration.

(f) Registration is effective:

(1) Immediately after the date a registration is filed; or

(2) On a date specified in the statement of registration, which date shall not be more than sixty days after the date of filing.

(g) Registration remains effective until:

(1) It is voluntarily withdrawn by filing with the secretary of state a statement of withdrawal; or

(2) Thirty days after receipt by the partnership of a notice from the secretary of state, which shall be sent by certified mail, return receipt requested, that the partnership has failed to make timely payment of the annual fee specified in subsection (e) of this section, unless the fee is paid within a thirty-day period.

(h) The status of a partnership as a registered limited liability partnership and the liability of the partners thereof shall not be affected by:
(1) Errors in the information contained in a statement of registration under subsection (a) of this section or notice under subsection (e) of this section; or

(2) Changes after the filing of the statement of registration or notice in the information stated in the registration or notice.

(i) The secretary of state shall provide forms for the statement of registration under subsection (a) of this section or a notice under subsection (e) of this section.

(j) All fees and moneys collected by the secretary of state pursuant to the provisions of this article shall be deposited by the secretary of state as follows: One-half shall be deposited in the state general revenue fund and one-half shall be deposited in the service fees and collections account established by section two, article one, chapter fifty-nine of this code for the operation of the office of the secretary of state. The secretary of state shall dedicate sufficient resources from that fund or other funds to provide the services required in this article.

CHAPTER 59. FEES, ALLOWANCES AND COSTS; NEWSPAPERS; LEGAL ADVERTISEMENTS.

ARTICLE 1. FEES AND ALLOWANCES.

§59-1-2. Fees to be charged by secretary of state.

(a) Except as may be otherwise provided in this code, the secretary of state shall charge for services rendered in his or her office the following fees to be paid by the person to whom the service is rendered at the time it is done:

(1) For filing, recording, indexing, preserving a record of and issuing a certificate relating to the formation, amendment, change of name, registration of trade name, merger, consolidation, conversion, renewal, dissolution, termination, cancellation, withdrawal revocation and reinstatement of business entities organized within the state, as follows:
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<tr>
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<th>Description</th>
<th>Fee</th>
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<tr>
<td>12</td>
<td>(A) Articles of incorporation of for-profit corporation</td>
<td>$50.00</td>
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<tr>
<td>14</td>
<td>(B) Articles of incorporation of nonprofit corporation</td>
<td>25.00</td>
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<td>16</td>
<td>(C) Agreement of a general partnership</td>
<td>50.00</td>
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<td>17</td>
<td>(D) Certificate of a limited partnership</td>
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<td>18</td>
<td>(E) Agreement of a voluntary association</td>
<td>50.00</td>
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<td>19</td>
<td>(F) Articles of organization of a business trust</td>
<td>50.00</td>
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<td>20</td>
<td>(G) Amendment or correction of articles of incorporation, including change of name or increase of capital stock, in addition to any applicable license tax</td>
<td>25.00</td>
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<td>23</td>
<td>(H) Amendment or correction, including change of name, of articles of organization of business trust, limited liability partnership, limited liability company or professional limited liability company or of certificate of limited partnership or agreement of voluntary association</td>
<td>25.00</td>
</tr>
<tr>
<td>28</td>
<td>(I) Amendment and restatement of articles of incorporation, certificate of limited partnership, agreement of voluntary association or articles of organization of limited liability partnership, limited liability company or professional limited liability company or business trust</td>
<td>25.00</td>
</tr>
<tr>
<td>33</td>
<td>(J) Registration of trade name, otherwise designated as a true name, fictitious name or D.B.A. (doing business as) name for any domestic business entity as permitted by law</td>
<td>25.00</td>
</tr>
<tr>
<td>37</td>
<td>(K) Articles of merger of two corporations, limited partnerships, limited liability partnerships, limited liability companies or professional limited liability companies, voluntary associations or business trusts.</td>
<td>25.00</td>
</tr>
<tr>
<td>42</td>
<td>(L) Plus for each additional party to the merger in excess of two.</td>
<td>15.00</td>
</tr>
</tbody>
</table>
(M) Statement of conversion, when permitted, from one business entity into another business entity, in addition to the cost of filing the appropriate documents to organize the surviving entity ........................................ 25.00

(N) Articles of dissolution of a corporation, voluntary association or business trust, or statement of dissolution of a general partnership ........................................ 25.00

(O) Revocation of voluntary dissolution of a corporation, voluntary association or business trust ........................................ 15.00

(P) Articles of termination of a limited liability company, cancellation of a limited partnership or statement of withdrawal of limited liability partnership ........................................ 25.00

(Q) Reinstatement of a limited liability company or professional limited liability company after administrative dissolution ........................................ 25.00

(2) For filing, recording, indexing, preserving a record of and issuing a certificate relating to the registration, amendment, change of name, merger, consolidation, conversion, renewal, withdrawal or termination within this state of business entities organized in other states or countries, as follows:

(A) Certificate of authority of for-profit corporation ........................................ $160.00

(B) Certificate of authority of nonprofit corporation ........................................ 50.00

(C) Certificate of exemption from certificate of authority ........................................ 25.00

(D) Registration of a general partnership ........................................ 50.00

(E) Registration of a limited partnership ........................................ 150.00

(F) Registration of a limited liability partnership for two-year term ........................................ 500.00
(G) Registration of a voluntary association ........ 50.00

(H) Registration of a trust or business trust ........ 50.00

(I) Amendment or correction of certificate of authority of a foreign corporation, including change of name or increase of capital stock, in addition to any applicable license tax .................................. 25.00

(J) Amendment or correction of certificate of limited partnership, limited liability partnership, limited liability company or professional limited liability company, voluntary association or business trust .......... 25.00

(K) Registration of trade name, otherwise designated as a true name, fictitious name or D.B.A. (doing business as) name for any foreign business entity as permitted by law ........................................ 25.00

(L) Amendment and restatement of certificate of authority or of registration of a corporation, limited partnership, limited liability partnership, limited liability company or professional limited liability company, voluntary association or business trust ......................... 25.00

(M) Articles of merger of two corporations, limited partnerships, limited liability partnerships, limited liability companies or professional limited liability companies, voluntary associations or business trusts ........................................ 25.00

(N) Plus for each additional party to the merger in excess of two ................................ 5.00

(O) Statement of conversion, when permitted, from one business entity into another business entity, in addition to the cost of filing the appropriate articles or certificate to organize the surviving entity ................. 25.00

(P) Certificate of withdrawal or cancellation of a corporation, limited partnership, limited liability partner-

107 ship, limited liability company, voluntary association or business trust ........................................ 25.00

109 (3) For receiving, filing and recording a change of the principal or designated office, change of the agent of process and/or change of officers, directors, partners, members or managers, as the case may be, of a corporation, limited partnership, limited liability partnership, limited liability company or other business entity as provided by law .................................................. 15.00

116 (4) For receiving, filing and preserving a reservation of a name for each one hundred twenty days or for any other period in excess of seven days prescribed by law for a corporation, limited partnership, limited liability partnership or limited liability company ........................................... 15.00

121 (5) For issuing a certificate relating to a corporation or other business entity, as follows:

123 (A) Certificate of good standing of a domestic or foreign corporation ........................................ 10.00

125 (B) Certificate of existence of a domestic limited liability company, and certificate of authorization foreign limited liability company ................................. 10.00

128 (C) Certificate of existence of any business entity, trademark or service mark registered with the secretary of state ......................................................... 10.00

131 (D) Certified copy of corporate charter or comparable organizing documents for other business entities . 15.00

133 (E) Plus, for each additional amendment, restatement or other additional document .................. 5.00

135 (F) Certificate of registration of the name of a foreign corporation, limited liability company, limited partnership or limited liability partnership ................................. 25.00

138 (G) And for the annual renewal of the name registration ............................................................... 10.00
(H) Any other certificate not herein specified ... 10.00

(6) For issuing a certificate other than those relating to business entities, as provided in this subsection, as follows:

(A) Certificate or apostille relating to the authority of certain public officers, including the membership of boards and commissions ..................... $10.00

(B) Plus, for each additional certificate pertaining to the same transaction ............................... 5.00

(C) Any other certificate not herein specified ... 10.00

(D) For acceptance, indexing and recordation of service of process any corporation, limited partnership, limited liability partnership, limited liability company, voluntary association, business trust, insurance company, person or other entity as permitted by law ............... 15.00

(E) For shipping and handling expenses for execution of service of process by certified mail upon any defendant within the United States, which fee is to be deposited to the special revenue account established in this section for the operation of the office of the secretary of state. 5.00

(F) For shipping and handling expenses for execution of service of process upon any defendant outside the United States by registered mail, which fee is to be deposited to the special revenue account established in this section for the operation of the office of the secretary of state. 15.00

(7) For a search of records of the office conducted by employees of or at the expense of the secretary of state upon request, as follows:

(A) For any search of archival records maintained at sites other than the office of the secretary of state, no less than ............................... $10.00
For searches of archival records maintained at sites other than the office of the secretary of state which require more than one hour, for each hour or fraction thereof consumed in making such search ........................................ 10.00

(C) For any search of records maintained on site for the purpose of obtaining copies of documents or printouts of data ........................................ 5.00

(D) For any search of records maintained in electronic format which requires special programming to be performed by the state information services agency or other vendor, any actual cost, but not less than ........ 25.00

(E) The cost of the search shall be in addition to the cost of any copies or printouts prepared or any certificate issued pursuant thereto or based thereon.

(F) For recording any paper for which no specific fee is prescribed ................................... 5.00

(G) For producing and providing photocopies or printouts of electronic data of specific records upon request, as follows:

(A) For a copy of any paper or printout of electronic data, if one sheet ................................... $1.00

(B) For each sheet after the first .............. .50

(C) For sending the copies or lists by fax transmission ........................................ 5.00

(D) For producing and providing photocopies of lists, reports, guidelines and other documents produced in multiple copies for general public use, a publication price to be established by the secretary of state at a rate approximating 2.00 plus .10 per page and rounded to the nearest dollar.

(E) For electronic copies of records obtained in data format on disk, the cost of the record in the least expensive format on disk, the cost of the record in the least expensive
(b) The secretary of state may promulgate legislative rules for charges for on-line electronic access to database information or other information maintained by the secretary of state.

(c) For any other work or service not enumerated in this subsection, the fee prescribed elsewhere in this code or a rule promulgated under the authority of this code.

(d) The records maintained by the secretary of state are prepared and indexed at the expense of the state and those records shall not be obtained for commercial resale without the written agreement of the state to a contract including reimbursement to the state for each instance of resale.

(e) The secretary of state may provide printed or electronic information free of charge as he or she considers necessary and efficient for the purpose of informing the general public or the news media.

(f) There is hereby established in the state treasury a special revenue account to be known as the “service fees and collections” account. Expenditures from the account shall be used for the operation of the office of the secretary of state and are not authorized from collections, but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon the fulfillment of the provisions set forth in article two, chapter five-a of this code. Notwithstanding any other provision of this code, one-half of all the fees and service charges established in the following sections and for the following purposes shall be deposited by the secretary of state or other collecting agency to that special revenue account and used for the operation of the office of the secretary of state;
(1) The annual attorney-in-fact fee for corporations and limited partnerships established in section five, article twelve-c, chapter eleven of this code;

(2) The fees received for the sale of the state register, code of state rules and other copies established by rule and authorized by section seven, article two, chapter twenty-nine-a of this code;

(3) The registration fees, late fees and legal settlements charged for registration and enforcement of the charitable organizations and professional solicitations established in sections five, nine and fifteen-b, article nineteen, chapter twenty-nine of this code;

(4) The annual attorney-in-fact fee for limited liability companies as designated in section one hundred eight, article one, chapter thirty-one-b of this code and established in section two hundred eleven, article two of said chapter;

(5) The filing fees and search and copying fees for uniform commercial code transactions established by section five hundred twenty-five, article nine, chapter forty-six of this code;

(6) The annual attorney-in-fact fee for licensed insurers established in section twelve, article four, chapter thirty-three of this code;

(7) The fees for the application and record maintenance of all notaries public established by section one hundred and seven, article one, chapter twenty-nine-c of this code;

(8) The fees for the application and record maintenance of commissioners for West Virginia as established by section twelve, article four, chapter twenty-nine of this code;

(9) The fees for registering credit service organizations as established by section five, article six-c, chapter forty-six-a of this code;
(10) The fees for registering and renewing a West Virginia limited liability partnership as established by section one, article ten, chapter forty-seven-b of this code;

(11) The filing fees for the registration and renewal of trademarks and service marks established in section seventeen, article two, chapter forty-seven of this code;

(12) All fees for services, the sale of photocopies and data maintained at the expense of the secretary of state as provided in this section; and

(13) All registration, license and other fees collected by the secretary of state not specified in this section.

(g) Any balance in the service fees and collections account established by this section which exceeds five hundred thousand dollars as of the thirtieth day of June, two thousand three, and each year thereafter, shall be expired to the state fund, general revenue fund.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 2001.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within... is approved... this the 2nd Day of April, 2001.

Governor
PRESENTED TO THE
GOVERNOR

Date  4/19/10
Time  5:08 pm