

HB 4465

FILED

2008 MAR 31 PM 4: 55

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
SECOND REGULAR SESSION, 2008



**ENROLLED**

**House Bill No. 4465**

(By Delegates Webster, Stemple, Kessler, Hrutkay, Guthrie,  
Sobonya, Longstreth, Vamer, Burdiss, Azinger and Schadler)



Passed March 8, 2008

In Effect Ninety Days from Passage

**E N R O L L E D**

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**H. B. 4465**

SECRETARY OF STATE

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(BY DELEGATES WEBSTER, STEMPLER, KESSLER,  
HRUTKAY, GUTHRIE, SOBONYA, LONGSTRETH, VARNER,  
BURDISS, AZINGER AND SCHADLER)

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[Passed March 8, 2008; in effect ninety days from passage.]

AN ACT to amend and reenact §59-1-2 of the Code of West Virginia, 1931, as amended, relating to creating a special revenue account; redirecting certain fees into the account; providing purposes for the expenditure of certain fee collections; continuing the prepaid fees and services account in the Secretary of State's office; assets in account not public funds; and purpose of account.

Be it enacted by the Legislature of West Virginia:

That §59-1-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE I. FEES AND ALLOWANCES.**

**§59-1-2. Fees to be charged by Secretary of State.**

- 1 (a) Except as may be otherwise provided in this code, the  
2 Secretary of State shall charge for services rendered in his or

3 her office the following fees to be paid by the person to  
4 whom the service is rendered at the time it is done:

5 (1) For filing, recording, indexing, preserving a record of  
6 and issuing a certificate relating to the formation,  
7 amendment, change of name, registration of trade name,  
8 merger, consolidation, conversion, renewal, dissolution,  
9 termination, cancellation, withdrawal revocation and  
10 reinstatement of business entities organized within the state,  
11 as follows:

12 (A) Articles of incorporation of for-profit corporation  
13 ..... \$50.00

14 (B) Articles of incorporation of nonprofit corporation  
15 ..... 25.00

16 (C) Articles of organization of limited liability company  
17 ..... 100.00

18 (D) Agreement of a general partnership ..... 50.00

19 (E) Certificate of a limited partnership ..... 100.00

20 (F) Agreement of a voluntary association ..... 50.00

21 (G) Articles of organization of a business trust .. 50.00

22 (H) Amendment or correction of articles of incorporation,  
23 including change of name or increase of capital stock, in  
24 addition to any applicable license tax ..... 25.00

25 (I) Amendment or correction, including change of name,  
26 of articles of organization of business trust, limited liability  
27 partnership, limited liability company or professional limited  
28 liability company or of certificate of limited partnership or  
29 agreement of voluntary association ..... 25.00

30 (J) Amendment and restatement of articles of  
 31 incorporation, certificate of limited partnership, agreement of  
 32 voluntary association or articles of organization of limited  
 33 liability partnership, limited liability company or professional  
 34 limited liability company or business trust . . . . . \$25.00

35 (K) Registration of trade name, otherwise designated as  
 36 a true name, fictitious name or D.B.A. (doing business as)  
 37 name for any domestic business entity as permitted by law  
 38 . . . . . 25.00

39 (L) Articles of merger of two corporations, limited  
 40 partnerships, limited liability partnerships, limited liability  
 41 companies or professional limited liability companies,  
 42 voluntary associations or business trusts. . . . . 25.00

43 (M) Plus for each additional party to the merger in excess  
 44 of two. . . . . 15.00

45 (N) Statement of conversion, when permitted, from one  
 46 business entity into another business entity, in addition to the  
 47 cost of filing the appropriate documents to organize the  
 48 surviving entity . . . . . 25.00

49 (O) Articles of dissolution of a corporation, voluntary  
 50 association or business trust, or statement of dissolution of a  
 51 general partnership . . . . . 25.00

52 (P) Revocation of voluntary dissolution of a corporation,  
 53 voluntary association or business trust . . . . . 15.00

54 (Q) Articles of termination of a limited liability company,  
 55 cancellation of a limited partnership or statement of  
 56 withdrawal of limited liability partnership . . . . . 25.00

57 (R) Reinstatement of a limited liability company or  
58 professional limited liability company after administrative  
59 dissolution ..... \$25.00

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

66 (A) Certificate of authority of for-profit corporation  
67 ..... 100.00

68 (B) Certificate of authority of nonprofit corporation  
69 ..... 50.00

70 (C) Certificate of authority of foreign limited liability  
71 companies ..... 150.00

72 (D) Certificate of exemption from certificate of authority  
73 ..... 25.00

74 (E) Registration of a general partnership ..... 50.00

75 (F) Registration of a limited partnership ..... 150.00

76 (G) Registration of a limited liability partnership for  
77 two-year term ..... 500.00

78 (H) Registration of a voluntary association ..... 50.00

79 (I) Registration of a trust or business trust ..... 50.00

80 (J) Amendment or correction of certificate of authority of  
81 a foreign corporation, including change of name or increase

82 of capital stock, in addition to any applicable license tax  
83 ..... \$25.00

84 (K) Amendment or correction of certificate of limited  
85 partnership, limited liability partnership, limited liability  
86 company or professional limited liability company, voluntary  
87 association or business trust ..... 25.00

88 (L) Registration of trade name, otherwise designated as  
89 a true name, fictitious name or D.B.A. (doing business as)  
90 name for any foreign business entity as permitted by law  
91 ..... 25.00

92 (M) Amendment and restatement of certificate of  
93 authority or of registration of a corporation, limited  
94 partnership, limited liability partnership, limited liability  
95 company or professional limited liability company, voluntary  
96 association or business trust ..... 25.00

97 (N) Articles of merger of two corporations, limited  
98 partnerships, limited liability partnerships, limited liability  
99 companies or professional limited liability companies,  
100 voluntary associations or business trusts ..... 25.00

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

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

107 (Q) Certificate of withdrawal or cancellation of a  
108 corporation, limited partnership, limited liability partnership,  
109 limited liability company, voluntary association or business  
110 trust ..... 25.00

111 Notwithstanding any other provision of this section to the  
112 contrary, after the thirtieth day of June, two thousand eight,  
113 the fees described in this subdivision that are collected for the  
114 issuance of a certificate relating to the initial registration of  
115 a corporation, limited partnership, domestic limited liability  
116 company or foreign limited liability company shall be  
117 deposited in the general administrative fees account  
118 established by this section.

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

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

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

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

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

137 (C) Certificate of existence of any business entity,  
138 trademark or service mark registered with the Secretary of  
139 State . . . . . 10.00

- 140 (D) Certified copy of corporate charter or comparable  
 141 organizing documents for other business entities .. \$15.00
- 142 (E) Plus, for each additional amendment, restatement or  
 143 other additional document ..... 5.00
- 144 (F) Certificate of registration of the name of a foreign  
 145 corporation, limited liability company, limited partnership or  
 146 limited liability partnership ..... 25.00
- 147 (G) And for the annual renewal of the name registration  
 148 ..... 10.00
- 149 (H) Any other certificate not specified in this subdivision  
 150 ..... 10.00
- 151 (6) For issuing a certificate other than those relating to  
 152 business entities, as provided in this subsection, as follows:
- 153 (A) Certificate or apostille relating to the authority of  
 154 certain public officers, including the membership of boards  
 155 and commissions ..... 10.00
- 156 (B) Plus, for each additional certificate pertaining to the  
 157 same transaction ..... 5.00
- 158 (C) Any other certificate not specified in this subdivision  
 159 ..... 10.00
- 160 (D) For acceptance, indexing and recordation of service  
 161 of process any corporation, limited partnership, limited  
 162 liability partnership, limited liability company, voluntary  
 163 association, business trust, insurance company, person or  
 164 other entity as permitted by law ..... 15.00

165 (E) For shipping and handling expenses for execution of  
166 service of process by certified mail upon any defendant  
167 within the United States, which fee is to be deposited to the  
168 special revenue account established in this section for the  
169 operation of the office of the Secretary of State. . . . \$5.00

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

175 (7) For a search of records of the office conducted by  
176 employees of or at the expense of the Secretary of State upon  
177 request, as follows:

178 (A) For any search of archival records maintained at sites  
179 other than the office of the Secretary of State . . . . .  
180 . . . . . no less than 10.00

181 (B) For searches of archival records maintained at sites  
182 other than the office of the Secretary of State which require  
183 more than one hour, for each hour or fraction of an hour  
184 consumed in making such search . . . . . 10.00

185 (C) For any search of records maintained on site for the  
186 purpose of obtaining copies of documents or printouts of data  
187 . . . . . 5.00

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

192 (E) The cost of the search is in addition to the cost of any  
193 copies or printouts prepared or any certificate issued pursuant  
194 to or based on the search.

- 195 (F) For recording any paper for which no specific fee is  
 196 prescribed . . . . . \$5.00
- 197 (8) For producing and providing photocopies or printouts  
 198 of electronic data of specific records upon request, as  
 199 follows:
- 200 (A) For a copy of any paper or printout of electronic data,  
 201 if one sheet . . . . . 1.00
- 202 (B) For each sheet after the first . . . . . .50
- 203 (C) For sending the copies or lists by fax transmission  
 204 . . . . . 5.00
- 205 (D) For producing and providing photocopies of lists,  
 206 reports, guidelines and other documents produced in multiple  
 207 copies for general public use, a publication price to be  
 208 established by the Secretary of State at a rate approximating  
 209 2.00 plus .10 per page and rounded to the nearest dollar.
- 210 (E) For electronic copies of records obtained in data  
 211 format on disk, the cost of the record in the least expensive  
 212 available printed format, plus, for each required disk, which  
 213 shall be provided by the Secretary of State . . . . . 5.00
- 214 (b) The Secretary of State may propose legislative rules  
 215 for promulgation for charges for on-line electronic access to  
 216 database information or other information maintained by the  
 217 Secretary of State.
- 218 (c) For any other work or service not enumerated in this  
 219 subsection, the fee prescribed elsewhere in this code or a rule  
 220 promulgated under the authority of this code.

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

226 (e) The Secretary of State may provide printed or  
227 electronic information free of charge as he or she considers  
228 necessary and efficient for the purpose of informing the  
229 general public or the news media.

230 (f) There is hereby continued in the state treasury a  
231 special revenue account to be known as the "service fees and  
232 collections" account. Expenditures from the account shall be  
233 used for the operation of the office of the Secretary of State  
234 and are not authorized from collections, but are to be made  
235 only in accordance with appropriation by the Legislature and  
236 in accordance with the provisions of article three, chapter  
237 twelve of this code and upon the fulfillment of the provisions  
238 set forth in article two, chapter five-a of this code.  
239 Notwithstanding any other provision of this code to the  
240 contrary, except as provided in subsection (h) of this section  
241 and section two-a of this article, one half of all the fees and  
242 service charges established in the following sections and for  
243 the following purposes shall be deposited by the Secretary of  
244 State or other collecting agency to that special revenue  
245 account and used for the operation of the office of the  
246 Secretary of State:

247 (1) The annual attorney-in-fact fee for corporations and  
248 limited partnerships established in section five, article  
249 twelve-c, chapter eleven of this code;

250 (2) The fees received for the sale of the state register,  
251 code of state rules and other copies established by rule and

252 authorized by section seven, article two, chapter twenty-nine-  
253 a of this code;

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

259 (4) The annual attorney-in-fact fee for limited liability  
260 companies as designated in section one hundred eight, article  
261 one, chapter thirty-one-b of this code and established in  
262 section two hundred eleven, article two of said chapter:  
263 *Provided*, That after the thirtieth day of June, two thousand  
264 eight, the annual report fees designated in section one  
265 hundred eight, article one, chapter thirty-one-b of this code  
266 shall upon collection be deposited in the general  
267 administrative fees account described in subsection (h) of this  
268 section;

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

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

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

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

282 (9) The fees for registering credit service organizations as  
283 established by section five, article six-c, chapter forty-six-a  
284 of this code;

285 (10) The fees for registering and renewing a West  
286 Virginia limited liability partnership as established by section  
287 one, article ten, chapter forty-seven-b of this code;

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

291 (12) All fees for services, the sale of photocopies and  
292 data maintained at the expense of the Secretary of State as  
293 provided in this section; and

294 (13) All registration, license and other fees collected by  
295 the Secretary of State not specified in this section.

296 (g) Any balance in the service fees and collections  
297 account established by this section which exceeds five  
298 hundred thousand dollars as of the thirtieth day of June, two  
299 thousand three, and each year thereafter, shall be expired to  
300 the state fund, general revenue fund.

301 (h)(1) Effective the first day of July, two thousand eight,  
302 there is hereby created in the state treasury a special revenue  
303 account to be known as the general administrative fees  
304 account. Expenditures from the account shall be used for the  
305 operation of the office of the Secretary of State and are not  
306 authorized from collections, but are to be made only in  
307 accordance with appropriation by the Legislature and in  
308 accordance with the provisions of article three, chapter  
309 twelve of this code and upon the fulfillment of the provisions  
310 set forth in article two, chapter eleven-b of this code:  
311 *Provided*, That for the fiscal year ending the thirtieth day of

312 June, two thousand nine, expenditures are authorized from  
313 collections rather than pursuant to an appropriation by the  
314 Legislature. Any balance in the account at the end of each  
315 fiscal year shall not revert to the general revenue fund but  
316 shall remain in the fund and be expended as provided by this  
317 subsection.

318 (2) After the thirtieth day of June, two thousand eight, all  
319 the fees and service charges established in section two-a of  
320 this article for the following purposes shall be collected and  
321 deposited by the Secretary of State or other collecting agency  
322 in the general administrative fees account and used for the  
323 operation of the office of the Secretary of State:

324 (A) The annual report fees paid to the Secretary of State  
325 by corporations, limited partnerships, domestic limited  
326 liability companies and foreign limited liability companies;

327 (B) The fees for the issuance of a certificate relating to  
328 the initial registration of a corporation, limited partnership,  
329 domestic limited liability company or foreign limited liability  
330 company described in subdivision (2), subsection (a) of this  
331 section; and

332 (C) The fees for the purchase of data and updates related  
333 to the State's Business Organizations Database described in  
334 section two-a of this article.

335 (i) There is continued in the office of the Secretary of  
336 State a non-interest bearing, escrow account to be known as  
337 the "prepaid fees and services account". This account shall  
338 be for the purpose of allowing customers of the Secretary of  
339 State to prepay for services, with payment to be held in  
340 escrow until services are rendered. Payments deposited in  
341 the account shall remain in the account until services are  
342 rendered by the Secretary of State and at that time the fees

343 will be reallocated to the appropriate general or special  
344 revenue accounts. There shall be no fee charged by the  
345 secretary of state to the customer for the use of this account  
346 and the customer may request the return of any moneys  
347 maintained in the account at any time without penalty. The  
348 assets of the prepaid fees and services account do not  
349 constitute public funds of the state and are available solely  
350 for carrying out the purposes of this section.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

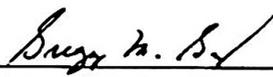
  
\_\_\_\_\_  
Chairman Senate Committee

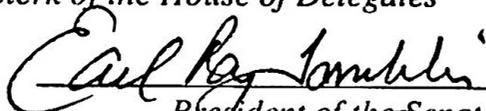
  
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Chairman House Committee

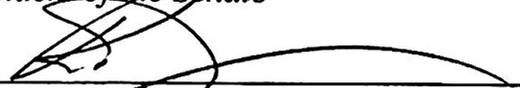
Originating in the House.

In effect ninety days from passage.

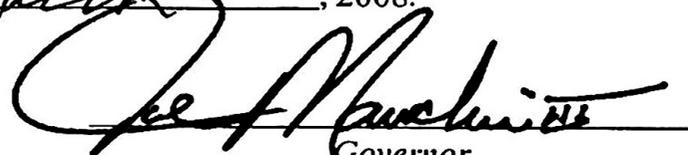
  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is approved the 31<sup>st</sup>  
day of May, 2008.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 25 2008

Time 10:20am