



AN ACT REVISING LAWS ON REINSTATEMENT OF A LIMITED LIABILITY COMPANY FOLLOWING ADMINISTRATIVE DISSOLUTION; AMENDING SECTION 35-8-912, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 35-8-912, MCA, is amended to read:

"35-8-912. Reinstatement following administrative dissolution. (1) A limited liability company administratively dissolved may apply to the secretary of state for reinstatement within 5 years after the effective date of dissolution. The applicant shall file an official application. The application must:

(a) recite the name of the company and the effective date of its administrative dissolution;

(b) state that the ground for dissolution either did not exist or has been eliminated;

(c) state that the company's name satisfies the requirements of 35-8-103;

(d) contain a certificate from the department of revenue reciting that all taxes owed by the company have been paid unless a limited liability company has only one member and has not elected to be taxed as a corporation; and

(e) include all annual reports not yet filed with the secretary of state.

(2) If the secretary of state determines that the application contains the information required by subsection (1) and that the information is correct, the secretary of state shall cancel the certificate of dissolution, prepare a certificate of reinstatement that recites this determination and the effective date of reinstatement, file the original of the certificate, and serve the company with a copy of the certificate.

(3) When reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution, and the company may resume its business as if the administrative dissolution had not occurred."

Section 2. Section 35-8-912, MCA, is amended to read:

"35-8-912. Reinstatement following administrative dissolution. (1) A limited liability company administratively dissolved under the provisions of 35-8-209 may apply to the secretary of state for reinstatement within 5 years after the effective date of dissolution to restore its right to carry on business in this state and to exercise all its privileges and immunities. ~~The applicant shall file an official application. The application must A~~ limited liability company applying for reinstatement shall submit to the secretary of state an official application, executed by a person who was a member or manager at the time of dissolution, setting forth:

- ~~(a) recite the name of the company and the effective date of its administrative dissolution;~~
- ~~(b) state that the ground for dissolution either did not exist or has been eliminated;~~
- ~~(c) state that the company's name satisfies the requirements of 35-8-103;~~
- ~~(d) contain a certificate from the department of revenue reciting that all taxes owed by the company have been paid; and~~
- ~~(e) include all annual reports not yet filed with the secretary of state.~~

- (a) the name and business mailing address of the limited liability company;
- (b) a statement that the assets of the limited liability company have not been liquidated;
- (c) a statement that a majority of its members have authorized the application for reinstatement; and
- (d) if its name has been legally acquired by another entity prior to its application for reinstatement, the name under which the limited liability company desires to be reinstated.

(2) The limited liability company shall submit with its application for reinstatement:

- (a) a certificate from the department of revenue stating that all taxes imposed pursuant to Title 15 have been paid unless a limited liability company has only one member and has not elected to be taxed as a corporation; and
- (b) all annual reports not yet filed with the secretary of state.

~~(2) If the secretary of state determines that the application contains the information required by subsection (1) and that the information is correct, the secretary of state shall cancel the certificate of dissolution, prepare a certificate of reinstatement that recites this determination and the effective date of reinstatement, file the original of the certificate, and serve the company with a copy of the certificate.~~

~~(3) When reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution, and the company may resume its business as if the administrative dissolution had not occurred.~~

(3) When all requirements of subsections (1) and (2) are met and the secretary of state reinstates the limited liability company, the secretary of state shall:

(a) conform and file in the office of the secretary of state reports, statements, and other instruments submitted for reinstatement;

(b) immediately issue and deliver to the reinstated limited liability company a certificate of reinstatement authorizing it to transact business; and

(c) upon demand and receipt of the specified fee, issue to the limited liability company one or more certified copies of the certificate of reinstatement.

(4) The secretary of state may not order a reinstatement if 5 years have elapsed since the date of dissolution.

(5) A restoration of limited liability company rights pursuant to this section relates back to the date the limited liability company was administratively dissolved, and the limited liability company is considered to have been an existing legal entity from the date of its original organization."

Section 3. Coordination instruction. If Senate Bill No. 63 and [this act] are both passed and approved, then [section 18 of Senate Bill No. 63] amending 35-8-912 is void.

Section 4. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 2] is effective October 1, 2011.

Section 5. Termination. [Section 1] terminates September 30, 2011.

- END -

I hereby certify that the within bill,
SB 0429, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2011.

Speaker of the House

Signed this _____ day
of _____, 2011.

SENATE BILL NO. 429
INTRODUCED BY A. WITTICH

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