

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0617.01 Jery Payne x2157

HOUSE BILL 26-1088

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A BILL FOR AN ACT
101 **CONCERNING ENTITY FILINGS MADE WITH THE SECRETARY OF STATE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill authorizes the secretary of state (secretary) to:

- Mark as void or remove from the system an entity filing if an electronic payment for the entity filing fee is reversed or is not completed;
- Suspend or dismiss a complaint if the secretary determines that a relationship exists between the complainant and the person that is the subject of the complaint alleging a fraudulent filing; and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters or bold & italic numbers indicate new material to be added to existing law.

Dashes through the words or numbers indicate deletions from existing law.

- Mark a business record with a notice that an entity is unauthorized or fraudulent without referring a complaint about the entity to the attorney general if the secretary receives a notice from the attorney general that the entity being listed as the registered agent was created or registered without authorization or for fraudulent purposes.

The bill prohibits using a fraudulent entity as a registered agent in a business entity filing.

Current law provides an administrative process for determining if an entity filing is made fraudulently or otherwise violates the law when a complaint is made. If such a determination is made, the entity filings may be canceled and the filers penalized. The procedures require the attorney general to notify the entity's registered agent. If the entity does not reply within 21 days after the notification, another notice is mailed, and if the entity does not reply to that notice within 21 days, the complaint is deemed to be conceded. The bill:

- Authorizes the attorney general to provide written notice to any other point of contact that the attorney general determines through investigation to be a means to reach the entity, if the address of the registered agent is the same as the address of the complainant;
- Repeals the second 21-day notice period; and
- Authorizes a person that is injured by such a violation to bring an action to dissolve the entity.

Under current law, actions to dissolve an entity must be brought in the district court for the county where the entity's principal office is located; if the entity has no principal office in this state, where the registered agent is located; or, if the entity has no registered agent, in Denver. The bill authorizes the action to be brought in Denver when the dissolution is based on a fraudulent filing.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 7-90-303, **add** (5) as
3 follows:

4 **7-90-303. Filing, service, and copying fees - subpoenas.**

5 **(5) IF PAYMENT FOR A DOCUMENT SUBMITTED TO THE SECRETARY**
6 **OF STATE FOR FILING IS NOT SUCCESSFULLY PROCESSED, INCLUDING**
7 **REVERSAL OF THE ELECTRONIC PAYMENT, THE DOCUMENT HAS NOT BEEN**
8 **SUCCESSFULLY FILED, NOTWITHSTANDING THE TIME OR DATE INITIALLY**

1 STAMPED ON THE DOCUMENT. THE SECRETARY OF STATE MAY EITHER:

2 (a) MARK THE DOCUMENT AS VOID WITH A STATUS OF
3 EFFECTIVENESS PREVENTED; OR

4 (b) REMOVE THE DOCUMENT FROM THE ONLINE FILING SYSTEM.

5 **SECTION 2.** In Colorado Revised Statutes, 7-90-314, **amend**
6 (1)(b), (1)(c), (3)(b), (4)(a), (4)(f), and (5); **repeal** (4)(e); and **add** (1)(d)
7 as follows:

8 **7-90-314. Fraudulent filings - complaint - review - referral to
9 attorney general - referral to administrative law judge - marking
10 filing as fraudulent - deceptive trade practice - definition.**

11 (1) **Fraudulent filings.** The following actions are prohibited:

12 (b) Including an address in a document filed in the secretary of
13 state's office under this part 3 without the consent of the owner of or
14 occupant of the included address; **and**

15 (c) Delivering a document regarding an entity to the secretary of
16 state's office if the individual who makes the delivery lacks the necessary
17 written consent or authority to do so; **AND**

18 (d) **USING A FRAUDULENT ENTITY, INCLUDING AN ENTITY THAT IS
19 HELD TO BE FRAUDULENT UNDER SUBSECTION (4)(g)(V) OF THIS SECTION,
20 AS A REGISTERED AGENT.**

21 (3) **Review - secretary of state.**

22 (b) (I) If the secretary of state determines that the information
23 provided in a complaint does not indicate a violation of subsection (1) of
24 this section or does not satisfy the requirements of subsection (2) of this
25 section, the secretary of state shall notify the person that submitted the
26 complaint of the fact and provide an explanation of any deficiencies in the
27 complaint.

15 (III) THE SECRETARY OF STATE MAY MARK AN ENTITY AS
16 UNAUTHORIZED OR FRAUDULENT WITHOUT REFERRING THE COMPLAINT TO
17 THE ATTORNEY GENERAL IF THE SECRETARY OF STATE RECEIVES THE
18 NOTICE DESCRIBED IN SUBSECTION (4)(g)(V) OF THIS SECTION AND THE
19 ENTITY THAT WAS CREATED OR REGISTERED WITHOUT AUTHORIZATION OR
20 FOR FRAUDULENT PURPOSES IS LISTED AS THE REGISTERED AGENT FOR THE
21 ENTITY.

22 (4) Review - attorney general - hearing and findings -
23 administrative law judge - definition.

1 should be investigated, the attorney general:

2 (I) Shall mail a written notice and demand to the street address or
3 mailing address, if different from the street address, as well as to the
4 email address, if available, of the registered agent of record listed in the
5 secretary of state's online filing system for the entity at issue; EXCEPT
6 THAT, IF THE ADDRESS OF THE REGISTERED AGENT IS THE SAME AS THE
7 ADDRESS OF THE COMPLAINANT, THE ATTORNEY GENERAL MAY PROVIDE
8 WRITTEN NOTICE TO ANY OTHER POINT OF CONTACT THAT THE ATTORNEY
9 GENERAL DETERMINES THROUGH INVESTIGATION TO BE A MEANS TO
10 REACH THE ENTITY AT ISSUE;

11 (I.5) ~~and, if a telephone number is available, the attorney general~~
12 ~~shall~~ MAY contact the registered agent by telephone IF A TELEPHONE
13 NUMBER IS AVAILABLE; and

14 (II) May provide written or verbal notice and demand to any other
15 point of contact that the attorney general determines through investigation
16 to be a means by which to reach the entity at issue.

17 (e) ~~If, within twenty-one days after mailing a notice and demand,~~
18 ~~the attorney general does not receive a response in writing or otherwise,~~
19 ~~the attorney general shall send a second notice and demand, consistent~~
20 ~~with the requirements of this subsection (4), and allow twenty-one days~~
21 ~~for a response, which must comply with subsection (4)(c) of this section.~~

22 (f) (I) If the attorney general does not receive a response within
23 twenty-one days after mailing a ~~second~~ notice and demand ~~as described~~
24 ~~in subsection (4)(e) IN ACCORDANCE WITH SUBSECTION (4)(c) of this~~
25 ~~section, each allegation in the notice and demand is deemed conceded by~~
26 ~~the person that did not respond, and the attorney general may certify that~~
27 ~~fact to the secretary of state. Upon receiving the certification, the~~

1 secretary of state shall take the appropriate remedial action under
2 subsections (4)(g)(V) and (4)(g)(VI) of this section based on the
3 conceded notice and demand.

4 (II) As used in this subsection (4)(f), "conceded notice and
5 demand" means a notice and demand described in ~~subsection (4)(e)~~
6 SUBSECTION (4)(c) of this section sent by the attorney general to which
7 the attorney general did not receive a response and in which, pursuant to
8 subsection (4)(f)(I) of this section, each allegation is deemed conceded by
9 the person that did not respond.

10 **(5) Enforcement - deceptive trade practice - private right of
11 action.**

12 (a) A violation of subsection (1) of this section is a deceptive trade
13 practice under section 6-1-105 (1)(ppp) and is subject to enforcement by
14 the department of law in addition to the enforcement described in this
15 section. A determination by the administrative law judge as provided by
16 subsection (4)(g)(IV) of this section or a failure to timely respond to a
17 notice and demand as provided by subsection (4)(f) of this section
18 constitutes a *prima facie* showing that subsection (1) of this section was
19 violated.

20 (b) A PERSON THAT IS INJURED BY AN ENTITY THAT HAS VIOLATED
21 SUBSECTION (1) OF THIS SECTION MAY BRING AN ACTION TO DISSOLVE THE
22 ENTITY IN ACCORDANCE WITH PART 7 OF ARTICLE 56 OF THIS TITLE 7, PART
23 8 OF ARTICLE 80 OF THIS TITLE 7, PART 3 OF ARTICLE 114 OF THIS TITLE 7,
24 PART 3 OF ARTICLE 134 OF THIS TITLE 7, OR THE COMMON LAW OF
25 COLORADO, AS APPLICABLE. THE COURT MAY DISSOLVE THE ENTITY IF THE
26 COURT FINDS THAT:

27 (I) THE ENTITY OBTAINED ITS ARTICLES OF INCORPORATION OR

1 ORGANIZATION THROUGH FRAUD; OR

2 (II) THE ENTITY HAS CONTINUED TO EXCEED OR ABUSE THE
3 AUTHORITY CONFERRED UPON IT BY LAW.

4 **SECTION 3.** In Colorado Revised Statutes, 7-56-715, **amend** (1)
5 as follows:

6 **7-56-715. Procedure for judicial dissolution.**

7 (1) (a) A proceeding to dissolve a cooperative brought by the
8 attorney general ~~shall~~ MUST be brought:

9 (I) In the district court for the county in this state in which the
10 street address of the cooperative's principal office is located; ~~or~~;

11 (II) If the cooperative has no principal office in this state, in the
12 district court for the county in which the street address of its registered
13 agent is located; ~~or~~;

14 (III) If the cooperative has no registered agent, in the district court
15 for the city and county of Denver; OR

16 (IV) IF THE DISSOLUTION IS BASED ON A FRAUDULENT FILING WITH
17 THE SECRETARY OF STATE, IN THE DISTRICT COURT FOR THE CITY AND
18 COUNTY OF DENVER.

19 (b) IF SUBSECTION (1)(a) OF THIS SECTION DOES NOT APPLY, a
20 proceeding brought by any other party named in section 7-56-714 ~~shall~~
21 MUST be brought:

22 (I) In the district court for the county in this state in which the
23 street address of the cooperative's principal office is located; ~~or~~;

24 (II) If the cooperative has no principal office in this state, in the
25 district court for the county in which the street address of its registered
26 agent is located; or

27 (III) If the cooperative has no registered agent, in the district court

1 for the city and county of Denver.

2 **SECTION 4.** In Colorado Revised Statutes, 7-80-811, **amend** (1)
3 as follows:

4 **7-80-811. Procedure for judicial dissolution.**

5 (1) (a) A judicial proceeding by the attorney general to dissolve
6 a limited liability company ~~shall~~ MUST be brought:

7 (I) In the district court for the county in this state in which the
8 street address of the limited liability company's principal office or the
9 street address of its registered agent is located; ~~or~~;

10 (II) If the limited liability company has no principal office in this
11 state and no registered agent, in the district court for the city and county
12 of Denver; OR

13 (III) IF THE DISSOLUTION IS BASED ON A FRAUDULENT FILING WITH
14 THE SECRETARY OF STATE, IN THE DISTRICT COURT FOR THE CITY AND
15 COUNTY OF DENVER.

16 (b) IF SUBSECTION (1)(a) OF THIS SECTION DOES NOT APPLY, a
17 judicial proceeding brought by ~~any other~~ A party named in section
18 7-80-810 to dissolve a limited liability company ~~shall~~ MUST be brought:

19 (I) In the district court for the county in this state in which the
20 street address of the limited liability company's principal office is located;
21 ~~or~~;

22 (II) If ~~it~~ THE LIMITED LIABILITY COMPANY has no principal office
23 in this state, in the district court for the county in which the street address
24 of its registered agent is located; or

25 (III) If the limited liability company has no registered agent, in the
26 district court for the city and county of Denver.

27 **SECTION 5.** In Colorado Revised Statutes, 7-114-302, **amend**

1 (1) as follows:

2 **7-114-302. Procedure for judicial dissolution.**

3 (1) (a) A proceeding by the attorney general to dissolve a
4 corporation ~~shall~~ MUST be brought:

5 (I) In the district court for the county in this state in which the
6 street address of the corporation's principal office or the street address of
7 its registered agent is located; ~~or~~;

8 (II) If the corporation has no principal office in this state and no
9 registered agent, in the district court for the city and county of Denver; OR

10 (III) IF THE DISSOLUTION IS BASED ON A FRAUDULENT FILING WITH
11 THE SECRETARY OF STATE, IN THE DISTRICT COURT FOR THE CITY AND
12 COUNTY OF DENVER.

13 (b) IF SUBSECTION (1)(a) OF THIS SECTION DOES NOT APPLY, a
14 proceeding brought by ~~any other~~ A party named in section 7-114-301 ~~shall~~
15 MUST be brought:

16 (I) In the district court for the county in this state in which the
17 street address of the corporation's principal office is located; ~~or~~;

18 (II) If ~~it~~ THE CORPORATION has no principal office in this state, in
19 the district court for the county in which the street address of its
20 registered agent is located; or

21 (III) If the corporation has no registered agent, in the district court
22 for the city and county of Denver.

23 **SECTION 6.** In Colorado Revised Statutes, 7-134-302, **amend**

24 (1) as follows:

25 **7-134-302. Procedure for judicial dissolution.**

26 (1) (a) A proceeding by the attorney general to dissolve a
27 nonprofit corporation ~~shall~~ MUST be brought:

1 (I) In the district court for the county in this state in which the
2 street address of the nonprofit corporation's principal office or the street
3 address of its registered agent is located; ~~or~~;

4 (II) If the nonprofit corporation has no principal office in this state
5 and no registered agent, in the district court for the city and county of
6 Denver; ~~OR~~

7 (III) IF THE DISSOLUTION IS BASED ON A FRAUDULENT FILING WITH
8 THE SECRETARY OF STATE, IN THE DISTRICT COURT FOR THE CITY AND
9 COUNTY OF DENVER.

10 (b) IF SUBSECTION (1)(a) OF THIS SECTION DOES NOT APPLY, a
11 proceeding brought by any other party named in section 7-134-301 ~~shall~~
12 ~~MUST~~ be brought:

13 (I) In the district court for the county in this state in which the
14 street address of the nonprofit corporation's principal office is located; ~~or~~;

15 (II) If ~~it~~ THE NONPROFIT CORPORATION has no principal office in
16 this state, in the district court for the county in which the street address of
17 its registered agent is located; or

18 (III) If the nonprofit corporation has no registered agent, in the
19 district court for the city and county of Denver.

20 **SECTION 7. Act subject to petition - effective date -
21 applicability.** (1) This act takes effect at 12:01 a.m. on the day following
22 the expiration of the ninety-day period after final adjournment of the
23 general assembly (August 12, 2026, if adjournment sine die is on May 13,
24 2026); except that, if a referendum petition is filed pursuant to section 1
25 (3) of article V of the state constitution against this act or an item, section,
26 or part of this act within such period, then the act, item, section, or part
27 will not take effect unless approved by the people at the general election

1 to be held in November 2026 and, in such case, will take effect on the
2 date of the official declaration of the vote thereon by the governor.

3 (2) This act applies to complaints filed on or after the applicable
4 effective date of this act.