STATE OF ALABAMATHE OFFICE OF THE SECRETARY OF STATE ADMINISTRATIVE CODE

CHAPTER 820-3-1
PROCEDURES FOR THE ADMINISTRATIVE DISSOLUTION OF CERTAIN CORPORATIONS

TABLE OF CONTENTS

820-3-1-.01 Definitions
820-3-1-.02 Service Of Notices And Certificates Of Dissolution

820-3-1-.01 Definitions.

(1) ABANDONED CORPORATION: a corporation formed under the laws of the State of Alabama which are presumed to have intentionally abandoned their property interests in their existence by having been certified by the Alabama Department of Revenue to not be in compliance with one or more of the grounds stated in Section 10-2B-14.20, Code of Ala. 1975, in each of the immediately preceding thirteen (13) calendar years.

(2) ADMINISTRATIVE DISSOLUTION: the dissolution of a corporation by act of the Secretary of State pursuant to Sections 10-2B-14.20, et seq., Code of Ala. 1975, and the provisions of these rules.

(3) DELINQUENT CORPORATION: a corporation other than an abandoned corporation formed under the laws of the State of Alabama which may be subject to administrative dissolution pursuant to Sections 10-2B-14.20, et seq., Code of Ala. 1975.

(4) DISSOLVED CORPORATION: a delinquent or abandoned corporation which has been administratively dissolved but remains on record for a period of time in which it may be reinstated pursuant to Section 10-2B-14.22, Code of Ala. 1975.

(5) SECRETARY OF STATE'S INTERNET SITE: a location on the world wide web found at the following address: http://www.sos.state.al.us/

Author: Charles E. Grainger, Jr.
Statutory Authority: Code of Ala. 1975, §§10-2B-14.20, et seq., 10-2B-5.04.
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820-3-1-.02 Service Of Notices And Certificates Of Dissolution.

(1) Delinquent Corporations.

(a) The notice of grounds for dissolution required by Section 10-2B-14.21(a), Code of Ala. 1975, shall be sent first class mail to the most recent address of the delinquent corporation's registered agent on file in the Secretary of State's Office. Alternatively, the Secretary of State adopts per agency agreement with the Alabama Department of Revenue the delinquency notice provided by the Alabama Department of Revenue as the Secretary of State's notice of finding that grounds for dissolution exist. Should no registered agent address appear on the records of the Secretary of State for the delinquent corporation's principal place of business or other available address reasonably intended to reach the delinquent corporation. If no address related to the delinquent corporation appears on the records of the Secretary of State, the Office of the Secretary of State shall publish the notice of grounds of dissolution on it's internet site. The Secretary of State's Corporations Division shall maintain a log showing the delinquent corporation's name, the full address to which notice was mailed and the date of the mailing or posting to the Secretary of State's internet site. The notice will be deemed perfected ten (10) days from the mailing date or 60 days from the date of publication to the internet as set forth in the log.

(b) The certificate of dissolution required by Section 10-2B-14.21(b), Code of Ala. 1975, shall be mailed by certified mail return receipt requested to the delinquent corporation's registered agent or, should no current registered agent address appear on the records of the Secretary of State, to the address on the records of the Secretary of State reasonably likely to reach the delinquent corporation. Should no such address appear on the records of the Secretary of State, or should the certificate of dissolution be returned to the Secretary of State as undeliverable, the Secretary of State shall publish the name of the delinquent corporation and the date of the publication on it's internet site in a listing of dissolved corporations. A delinquent corporation shall be deemed dissolved from it's publication on the Secretary of State's internet listing of dissolved corporations whichever is earlier.

(2) Abandoned Corporations.

(a) Policy statement and interpretation of law.

1. Due to a combination of the evidence of abandonment of a property interest, the presence of tens of thousands of abandoned corporations on the records of the Secretary of State and the great expense associated with traditional forms of written notice, the Secretary of State finds that the reasonable method of notice for these corporations is by publication to the internet. See Subsection 10-2B-5.04 (c), Code of Ala. 1975. Fifteen years of non-payment of taxes and penalties can only be reasonably interpreted as deliberate. Even if abandoned corporations did have a property interest, service by mail or publication of these corporations would cost Alabama taxpayers in excess of one million dollars ($1,000,000) which would occur entirely to the misconduct of the abandoned corporation.

2. Rule 4.3 of the Alabama Rules of Civil Procedure provides for service by publication using any newspaper of general circulation at least once a week for four consecutive weeks as a medium. This would cost in excess of one million dollars ($1,000,000). Often these publications are made in low circulation newspapers with little likelihood of being read by the principals of abandoned corporations. They may not be widely distributed, may be hard to find, would only be distributed around the county of the abandoned corporation's formation and generally cost money for readers to obtain.

3. By contrast, internet publication is supported by the benefits of being accessible from anywhere in the world, being widely available in most homes and almost all businesses, available in most public libraries and has an overwhelming likelihood of being available to principals of corporations and the legal community. The consistent central address available from internet publication is far more likely to reach the intended recipient than a sporadic local publication in a low circulation weekly. Listing these abandoned corporations as dissolved for two years offers greater longevity than a four week newspaper publication which provides a better match to the statutory scheme of providing for a two year reinstatement period without loss of property rights during the interim. See Section 10-2B-14.22, Code of Ala. 1975. Insofar as Subsection 10-2B-5.04 (c) expressly allows for notice outside of the Alabama Rules of Civil Procedure referred to in Subsection (b) of that same section, the Secretary of State is given the flexibility of using his or her expertise in applying the statutory scheme to the circumstances and has identified internet publication as a valid form of written notice within the narrow circumstances identified in these rules.

(b) While the Secretary of State maintains that no property interest exists from which to require notice, the written notice required by Section 10-2B-14.21, Code of Ala. 1975, to abandoned corporations will be accomplished by publication on the Secretary of State's internet site.

(3) Certificates of dissolution may be provided to probate judges in a monthly basis by first class mail listing the names of corporations formed in their counties which have been administratively dissolved or may by written agreement with the Judge of Probate be provided electronically. The listing shall identify the date on which corporation's certificate of dissolution is effective and the ground or grounds for dissolution. The Secretary of State shall maintain certificates or dissolution on the file identifying each dissolved corporation.
Author: Charles E. Grainger, Jr.
Statutory Authority: Code of Ala. 1975, §§10-2B-14.20, et seq., 10-2B-5.04(c).
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