

# CHAPTER 99-218

## Senate Bill No. 1830

An act relating to filings with the Department of State; amending s. 606.03, F.S.; providing definitions; amending s. 606.04, F.S.; specifying purposes and use of a master business index; providing requirements for participating agencies; authorizing the department to create a directory of business activity for certain purposes; creating s. 606.06, F.S.; authorizing the department to use a uniform business report for certain purposes; amending ss. 495.071, 607.0121, 607.1622, 608.4511, 617.0121, 617.1622, 865.09, F.S.; authorizing the department to prescribe forms; providing for use of the uniform business report as a substitute for certain reporting and renewal requirements; amending s. 620.177, F.S.; providing additional requirements for annual reports; authorizing use of the uniform business report; amending ss. 15.16, 607.0120, 607.0123, 607.0124, 607.0125, 607.0127, 607.0141, F.S.; providing for electronic filing of documents; revising certain filing requirements; amending s. 607.01401, F.S.; providing definitions relating to electronic filing; amending s. 339.12, F.S.; conforming a cross-reference; repealing s. 15.09(1)(d); repealing s. 15.091(2), F.S., relating to filing or copying fees; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsections (4) and (5) of section 606.03, Florida Statutes, are renumbered as subsections (5) and (6), respectively, and new subsections (4) and (7) are added to that section, to read:

606.03 Definitions.—As used in this act:

(4) “Participating agency” means an agency of government which elects to participate in the exchange of information through the master business index.

(7) “Uniform business report” means an information gathering document distributed by the department to collect or update current data for the master business index.

Section 2. Section 606.04, Florida Statutes, is amended to read:

606.04 Master Single business index identifier.—

(1)(a) The department shall create a master business index, using as an initial base the commercial regulation and registration program databases the department currently maintains. Each business entity shall be assigned a unique single business identifier for interagency use. The master business index shall serve as the state’s central index of business entities and shall reflect a listing of all licenses and registrations held by a business with any participating agency.

(b) Each participating agency, notwithstanding any other requirement of law, shall:

1. Provide updated information regarding the status of a business entity which the agency regulates or licenses and on which the agency maintains records.

2. Have the discretion to use the index as an alternative means of acquiring information about a business entity and, as necessary, use the information in the index to comply with the various requirements for registration, license issuance, renewal, or otherwise in the fulfillment of the agency's statutory responsibilities.

3. Have the discretion to use the index in any instance as an authorized source for the creation or amendment of any official records.

(c) The department is authorized to create, in conjunction with the master business index, a directory of business activity which will facilitate the exchange of information on Florida's business opportunities and further the international and domestic economic development efforts of this state.

(2) The department is authorized to take the actions it deems necessary to integrate all nonbusiness entity or commercial registrations it maintains into the master business index such that all registrations maintained for a business entity are reflected in the index in a consolidated manner.

(3) The department is authorized to enter into any formal agreement with federal, state, or local agencies to facilitate the registration of a business entity with that agency take the actions it deems practical to consolidate its various renewal or annual mailings, to include the altering of specified mailing dates and filing deadlines.

Section 3. Section 606.06, Florida Statutes, is created to read:

606.06 Uniform business report.—The department may use the uniform business report:

(1) To create index records and for referral to other federal, state, or local agencies as requested by a registrant.

(2) As a substitute for any annual report or renewal filing required by chapters 495, 607, 608, 609, 617, 620, 621, and 865.

(3) As the means for any registrant to apply for the issuance of a Federal Employer Identification Number, pursuant to any formal agreement with the Internal Revenue Service of the United States.

(4) To comply with any formal agreement for information exchange or reciprocal issuance of a license permit or registration.

(5) To facilitate the creation and maintenance of a database and a directory of businesses and any information regarding the activities of such businesses which will further the international and domestic economic development efforts of this state.

Section 4. Subsections (3), (4), and (5) of section 495.071, Florida Statutes, are amended to read:

495.071 Duration and renewal.—

(3) The Department of State shall notify registrants of marks hereunder of the necessity of renewal within the year next preceding the expiration of the 10 years from the date of registration by writing to the last known address of the registrants. The department shall prescribe the forms on which to make the required notification and the renewal called for in subsection (1) and may substitute the uniform business report, pursuant to s. 606.06, as a means of satisfying the requirement of this part.

~~(4) Any registration in force on the date on which this chapter shall become effective shall be effective for a term of 10 years from the date of the registration or of the last renewal thereof or 1 year after the effective date of this chapter, whichever is later, and may be renewed by filing an application with the Department of State on a form furnished by it and paying the aforementioned renewal fee therefor within 6 months prior to the expiration of the registration.~~

~~(4)(5)~~ All applications for renewals under this chapter shall include a statement that the mark is still in use in this state, or that its nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark.

Section 5. Paragraph (d) of subsection (1) of section 607.0121, Florida Statutes, is amended to read:

607.0121 Forms.—

(1) The Department of State may prescribe and furnish on request forms for:

(d) The annual report, for which the department may prescribe the use of the uniform business report, pursuant to s. 606.06.

If the Department of State so requires, the use of these forms shall be mandatory.

Section 6. Subsection (9) is added to section 607.1622, Florida Statutes, to read:

607.1622 Annual report for Department of State.—

(9) The department shall prescribe the forms on which to make the annual report called for in this section and may substitute the uniform business report, pursuant to s. 606.06, as a means of satisfying the requirement of this part.

Section 7. Paragraph (8) is added to section 608.4511, Florida Statutes, to read:

608.4511 Annual report for Department of State.—

(8) The department shall prescribe the forms on which to make the annual report called for in this section and may substitute the uniform business report, pursuant to s. 606.06, as a means of satisfying the requirement of this part.

Section 8. Paragraph (d) of subsection (1) of section 617.0121, Florida Statutes, is amended to read:

617.0121 Forms.—

(1) The Department of State may prescribe and furnish on request forms for:

(d) The annual report, for which the department may prescribe the use of the uniform business report, pursuant to s. 606.06.

If the Department of State so requires, the use of these forms shall be mandatory.

Section 9. Subsection (9) is added to section 617.1622, Florida Statutes, to read:

617.1622 Annual report for Department of State.—

(9) The department shall prescribe the forms on which to make the annual report called for in this section and may substitute the uniform business report, pursuant to s. 606.06, as a means of satisfying the requirement of this part.

Section 10. Section 620.177, Florida Statutes, is amended to read:

620.177 Annual report of domestic or foreign limited partnership; renewal of authority.—

(1) ~~To renew the certificate of authority for a limited partnership, which certificate expires on January 1 of each year, each domestic or foreign limited partnership authorized to transact business in this state shall file with the Department of State, between January 1 and May 1 on or before December 31 of each year, a sworn report on such forms as the department prescribes, which report must set forth:~~

(a) If a domestic limited partnership, the name of the limited partnership or, if a foreign limited partnership, the name under which it is registered to transact business in this state.

(b) The name of the state of formation.

(c) The date of formation in this state or the date of original registration in this state.

(d) If a domestic limited partnership, the address of the office, and the name and address of the agent for service of process, required to be main-

tained by s. 620.105; or, if a foreign limited partnership, the address of the office required to be maintained by s. 620.169 and the name and address of any agent for service of process appointed pursuant to s. 620.169.

(e) The name and the business address of each general partner. Each general partner that is a legal or commercial entity and not an individual must be organized or otherwise registered with the Department of State as required by law, must maintain an active status, and must not be dissolved, revoked, or withdrawn.

(f) A mailing address for the partnership.

(g) If a domestic limited partnership, the amount of the capital contributions of its limited partners or, if a foreign limited partnership, the amount of the capital contributions of its limited partners that is allocated for the purpose of transacting business in this state.

(h) The federal employer identification number of the limited partnership, if any, or if none, whether one has been applied for.

(i)(h) Any additional information that is necessary or appropriate to enable the department to carry out the provisions of this act.

(2) Each report must be executed by a general partner of the partnership or, if the partnership is in the hands of a receiver or trustee, must be executed on behalf of the partnership by the receiver or trustee, and the execution of such report shall have the same legal effect as if made under oath, without the necessity of appending the oath to the report.

(3) Proof to the satisfaction of the department that the annual report was deposited, on or before May January 1 of the report year, in the United States mail in a sealed envelope, properly addressed with postage prepaid, is considered proof of compliance with the time requirement.

(4) The department shall examine each annual report when received; and, if it finds that the report conforms to the requirements of this section, it shall file the report as information and keep such report as a public record. If the department finds that the report does not so conform, the department shall promptly return the report to the partnership for correction, in which event, if such report is corrected to conform with the requirements of this section and returned to the department within 30 days from the date on which the report was mailed to the partnership by the department, the penalties provided in s. 620.178 will not apply.

(5) The first annual report must be delivered to the Department of State between January 1 and May 1 of the year following the calendar year in which a domestic partnership was formed or a foreign partnership was authorized to conduct affairs. Subsequent annual reports must be delivered to the Department of State between January 1 and May 1 of the subsequent calendar years.

(6) Information in the annual report must be current as of the date the annual report is executed on behalf of the partnership.

(7) If an additional report is received, the department shall file the document and make the information contained in the report part of the official record.

(8) Any partnership that fails to file an annual report which complies with the requirements of this section may not maintain or defend any action in any court of this state until such report is filed and all fees and taxes due under this act are paid and is subject to revocation of its certificate of authority to conduct its affairs as provided in this act.

(9)(5) The department shall prescribe the forms on which to make the annual reports called for in this section and may substitute the uniform business report, pursuant to s. 606.06, as a means of satisfying the requirement of this part shall furnish blank forms on request.

Section 11. Subsections (6) and (11) of section 865.09, Florida Statutes, 1998 Supplement, are amended to read:

865.09 Fictitious name registration.—

(6) RENEWAL.—

(a) Renewal of a fictitious name registration shall occur on or after ~~January~~ July 1 and on or before December 31 of the expiration year. Upon timely filing of a renewal statement, the effectiveness of the name registration is continued for 5 years as provided in subsection (5).

(b) In the last year of the registration, the division shall mail to the last reported mailing address or to the address of any registered owner of a name of each name registration on its records, at least 3 months prior to its expiration date, a statement of renewal.

(c) If the owner of the name registration fails to file a renewal and pay the appropriate processing fees prior to December 31 of the year of expiration, the name registration expires. The division shall remove any expired or canceled name registration from its records and may purge such registrations. Failure to receive the statement of renewal required by paragraph (b) shall not constitute grounds for appeal of a registration's expiration or removal from the division's records.

(11) FORMS.—Registration, cancellation, and renewal shall be made on forms prescribed by the Department of State, which may include the uniform business report, pursuant to s. 606.06, as a means of satisfying the requirement of this part.

Section 12. Section 15.16, Florida Statutes, is amended to read:

15.16 Reproduction of records; admissibility in evidence; electronic receipt and transmission of records; certification; acknowledgment.—

(1) The Department of State may cause to be made copies of any records maintained by it by miniature photographic microfilming or microphotographic processes or any other photographic, mechanical, or other process heretofore or hereafter devised, including electronic data processing.

(2) Photographs, nonerasable optical images, or microphotographs in the form of film, facsimiles, or prints of any records made in compliance with the provisions of this section shall have the same force and effect as the originals thereof and shall be treated as originals for the purpose of their admissibility in evidence. Duly certified or authenticated reproductions of such photographs, nonerasable optical images, or microphotographs shall be admitted in evidence equally with the original photographs, nonerasable optical images, or microphotographs.

(3) The Department of State may cause to be received electronically any records that are required to be filed with it pursuant to chapter 55, chapter 606, chapter 607, chapter 608, chapter 617, chapter 620, chapter 621, chapter 679, chapter 713, or chapter 865, through facsimile or other electronic transfers, for the purpose of filing such records. The originals of all such electronically transmitted records must be executed in the manner provided in paragraph (5)(b) by law and must contain in the lower left-hand corner of the first page the name, address, and telephone number of the preparer of the original and, if prepared by an attorney licensed in this state, the preparer's Florida Bar membership number. The receipt of such electronic transfer constitutes delivery to the department as required by law.

(4) Notwithstanding any other provision of law, the department may certify or acknowledge and electronically transmit any record maintained by it. The certification must be evidenced by a certification code on each page transmitted which must include the ~~chapter or~~ filing number of the document, date of transmission, and page number of the total number of pages transmitted, and a sequential certification number assigned by the department which will identify the transmission and be available for verification of any transmitted acknowledgment or certified document.

(5) ~~Notwithstanding any other provision of law, the Department of State shall determine, by rule, the appropriate format for, number of copies of, manner of execution of, method of electronic transmission of, and amount of and method of payment of fees for purposes of electronic filing of any document placed under its jurisdiction for filing or recordation;~~

(a) The appropriate format, which must be retrievable or reproducible in typewritten or printed form and must be legible.

(b) The manner of execution, which may include any symbol, manual, facsimile, conformed, or electronic signature adopted by a person with the present intent to authenticate a document.

(c) The method of electronic transmission, and fee payment for such document.

(d) The amount of any fee surcharge or discount for the use of an electronic filing format.

(6) The Department of State may use government or private sector contractors in the promotion or provision of any electronic filing services.

Section 13. Subsections (4), (7), and (9) of section 607.0120, Florida Statutes, are amended, and subsection (10) is added to that section, to read:

607.0120 Filing requirements.—

(4) The document must be typewritten or printed, or, if electronically transmitted, the document must be in a format that can be retrieved or reproduced in typewritten or printed form, and must be legible.

(7) The person executing the document shall sign it and state beneath or opposite his or her signature his or her name and the capacity in which he or she signs. The document may, but need not, contain:

- (a) the corporate seal,
- (b) an attestation ~~by the secretary or an assistant secretary,~~
- (c) an acknowledgment, or a verification,~~or proof.~~

(9) The document must be delivered to the office of the Department of State for filing. Delivery may be made by electronic transmission if and to the extent permitted by the Department of State. If it is filed in typewritten or printed form and not transmitted electronically, the Department of State may require, ~~may be accompanied by one exact or conformed copy, to be delivered with the document, (except as provided in s. 607.1509), and must be accompanied by the correct filing fee and any other tax or penalty required by this act or other law.~~

(10) When the document is delivered to the Department of State for filing, the correct filing fee, and any other tax, license fee, or penalty required to be paid by this act or other law shall be paid or provision for payment made in a manner permitted by the Department of State.

Section 14. Subsections (1) and (2) of section 607.0123, Florida Statutes, are amended to read:

607.0123 Effective time and date of document.—

(1) Except as provided in subsection (2) and in s. 607.0124(3), a document accepted for filing is effective:

(a) At the date time of filing ~~on the date it is filed,~~ as evidenced by such means as the Department of State may use for the purpose of recording the date of filing ~~State's date and time endorsement on the original document;~~  
or

(b) At the date time specified in the document as its effective ~~time on the date it is filed.~~

(2) A document may specify a delayed effective ~~time and date,~~ and if it does the document shall become effective on at the ~~time and date~~ specified. If a delayed effective date, ~~but no time,~~ is specified, the document shall become effective at the start ~~close~~ of business on that date. Unless otherwise permitted by this act, a delayed effective date for a document may not be later than the 90th day after the date on which it is filed.



Section 15. Section 607.0124, Florida Statutes, is amended to read:

607.0124 Correcting filed document.—

(1) A domestic or foreign corporation may correct a document filed by the Department of State within 10 business days of filing if the document:

(a) Contains an inaccuracy ~~incorrect statement~~; or

(b) Was defectively executed, attested, sealed, verified, or acknowledged;  
or

(c) The electronic transmission was defective.

(2) A document is corrected:

(a) By preparing articles of correction that:

1. Describe the document (including its filing date) or attach a copy of it to the articles;

2. Specify the inaccuracy or defect to be corrected ~~incorrect statement and the reason it is incorrect or the manner in which the execution was defective~~; and

3. Correct the inaccuracy or defect ~~incorrect statement or defective execution~~; and

(b) By delivering the executed articles of correction to the Department of State for filing.

(3) Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.

Section 16. Subsection (2) of section 607.0125, Florida Statutes, is amended to read:

607.0125 Filing duties of Department of State.—

(2) The Department of State files a document by recording it as filed on ~~stamping or otherwise endorsing “filed,” together with the Secretary of State’s official title and the date and time of receipt.~~ After filing a document, the Department of State shall deliver an acknowledgment or certified copy to the domestic or foreign corporation or its representative.

Section 17. Section 607.0127, Florida Statutes, is amended to read:

607.0127 Evidentiary effect of copy of filed document.—A certificate from ~~the Department of State delivered with attached to~~ a copy of a document filed by the Department of State, bearing the signature of the Secretary of State ~~(which may be in facsimile) and the seal of this state~~, is conclusive evidence that the original document is on file with the department.

Section 18. Subsection (7) of section 607.01401, Florida Statutes, is amended, present subsections (9)-(24) are renumbered as subsections (10)-(25), respectively, present subsections (25)-(29) are renumbered as subsections (27)-(31), respectively, and new subsections (9) and (26) are added to that section, to read:

607.01401 Definitions.—As used in this act, unless the context otherwise requires, the term:

(7) “Deliver” or “delivery” means any method of delivery used in conventional commercial practice, including delivery by hand, includes mail, commercial delivery, and electronic transmission.

(9) “Electronic transmission” or “electronically transmitted” means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient.

(26) “Sign” or “signature” means any symbol, manual, facsimile, conformed, or electronic signature adopted by a person with the intent to authenticate a document.

Section 19. Section 607.0141, Florida Statutes, is amended to read:

607.0141 Notice.—

(1) Notice under this act must be in writing, unless oral notice is:

- (a) Expressly authorized by the articles of incorporation or the bylaws, and
- (b) Reasonable under the circumstances.

Notice by electronic transmission is written notice.

(2) Notice may be communicated in person; by telephone, voice mail (where oral notice is permitted), or other electronic means ~~telegraph, teletype, or other form of electronic communication~~; or by mail or other method of delivery.

(3) Written notice by a domestic or foreign corporation authorized to transact business in this state to its shareholder, if in a comprehensible form, is effective; ~~when mailed~~

(a) Upon deposit into the United States mail, if mailed postpaid and correctly addressed to the shareholder’s address shown in the corporation’s current record of shareholders; or

(b) When electronically transmitted to the shareholder in a manner authorized by the shareholder.

(4) Written notice to a domestic or foreign corporation authorized to transact business in this state may be addressed:

(a) To its registered agent at its registered office; or

(b) To the corporation or its secretary at its principal office or electronic mail address as authorized and shown in its most recent annual report or, in the case of a corporation that has not yet delivered an annual report, in a domestic corporation's articles of incorporation or in a foreign corporation's application for certificate of authority.

(5) Except as provided in subsection (3) or elsewhere in this act, written notice, if in a comprehensible form, is effective at the earliest date of the following:

(a) When received;

(b) Five days after its deposit in the United States mail, ~~as evidenced by the postmark,~~ if mailed postpaid and correctly addressed; or

(c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

(6) Oral notice is effective when communicated if communicated directly to the person to be notified in a comprehensible manner.

(7) If this act prescribes notice requirements for particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe notice requirements not less stringent than the requirements of this section or other provisions of this act, those requirements govern.

Section 20. Paragraph (a) of subsection (4) of section 339.12, Florida Statutes, is amended to read:

339.12 Aid and contributions by governmental entities for department projects; federal aid.—

(4)(a) Prior to accepting the contribution of road bond proceeds, time warrants, or cash for which reimbursement is sought, the department shall enter into agreements with the governing body of the governmental entity for the project or project phases in accordance with specifications agreed upon between the department and the governing body of the governmental entity. The department in no instance is to receive from such governmental entity an amount in excess of the actual cost of the project or project phase. By specific provision in the written agreement between the department and the governing body of the governmental entity, the department may agree to reimburse the governmental entity for the actual amount of the bond proceeds, time warrants, or cash used on a highway project or project phases that are not revenue producing and are contained in the department's adopted work program, or any public transportation project contained in the adopted work program. Subject to appropriation of funds by the Legislature, the department may commit state funds for reimbursement of such projects or project phases. Reimbursement to the governmental entity for such a project or project phase must be made from funds appropriated by the Legislature, and reimbursement for the cost of the project or project phase

is to begin in the year the project or project phase is scheduled in the work program as of the date of the agreement. Funds advanced pursuant to this section, which were originally designated for transportation purposes and so reimbursed to a county or municipality, shall be used by the county or municipality for any transportation expenditure authorized under s. 336.025(7). Also, cities and counties may receive funds from persons, and reimburse those persons, for the purposes of this section. Such persons may include, but are not limited to, those persons defined in s. 607.01401~~(19)~~(18).

Section 21. Paragraph (d) of subsection (1) of section 15.09, Florida Statutes, 1998 Supplement, subsection (2) of section 15.091, Florida Statutes, are repealed.

Section 22. This act shall take effect upon becoming a law.

Approved by the Governor May 26, 1999.

Filed in Office Secretary of State May 26, 1999.