

## **Chapter 17**

### **Model Registered Agents Act**

#### **Part 1**

#### **General Provisions**

##### **16-17-101 Title.**

This chapter is known as the "Model Registered Agents Act."

Enacted by Chapter 364, 2008 General Session

##### **16-17-102 Definitions.**

In this chapter:

- (1) "Appointment of agent" means a statement appointing an agent for service of process filed by:
  - (a) a domestic or foreign unincorporated nonprofit association under Section 16-17-204; or
  - (b) a domestic entity that is not a filing entity or a nonqualified foreign entity under Section 16-17-210.
- (2) "Commercial registered agent" means an individual or a domestic or foreign entity listed under Section 16-17-204.
- (3) "Division" means the Division of Corporations and Commercial Code.
- (4) "Domestic entity" means an entity whose internal affairs are governed by the law of this state.
- (5) "Entity" means a person that has a separate legal existence or has the power to acquire an interest in real property in its own name other than:
  - (a) an individual;
  - (b) a testamentary, inter vivos, or charitable trust, with the exception of a business trust, statutory trust, or similar trust;
  - (c) an association or relationship that is not a partnership by reason of Section 202(c) of the Uniform Partnership Act (1997), or Subsection 48-1d-202(3), as appropriate pursuant to Section 48-1d-1405, or a similar provision of the law of any other jurisdiction;
  - (d) a decedent's estate; or
  - (e) a public corporation, government or governmental subdivision, agency, or instrumentality, or quasi-governmental instrumentality.
- (6) "Filing entity" means an entity that is created by the filing of a public organic document.
- (7) "Foreign entity" means an entity other than a domestic entity.
- (8) "Foreign qualification document" means an application for a certificate of authority or other foreign qualification filing with the division by a foreign entity.
- (9) "Governance interest" means the right under the organic law or organic rules of an entity, other than as a governor, agent, assignee, or proxy, to:
  - (a) receive or demand access to information concerning, or the books and records of, the entity;
  - (b) vote for the election of the governors of the entity; or
  - (c) receive notice of or vote on any or all issues involving the internal affairs of the entity.
- (10) "Governor" means a person by or under whose authority the powers of an entity are exercised and under whose direction the business and affairs of the entity are managed pursuant to the organic law and organic rules of the entity.
- (11) "Interest" means:
  - (a) a governance interest in an unincorporated entity;
  - (b) a transferable interest in an unincorporated entity; or

- (c) a share or membership in a corporation.
- (12) "Interest holder" means a direct holder of an interest.
- (13) "Jurisdiction of organization," with respect to an entity, means the jurisdiction whose law includes the organic law of the entity.
- (14) "Noncommercial registered agent" means a person that is not listed as a commercial registered agent under Section 16-17-204 and that is:
  - (a) an individual or a domestic or foreign entity that serves in this state as the agent for service of process of an entity; or
  - (b) the individual who holds the office or other position in an entity that is designated as the agent for service of process pursuant to Subsection 16-17-203(1)(b)(ii).
- (15) "Nonqualified foreign entity" means a foreign entity that is not authorized to transact business in this state pursuant to a filing with the division.
- (16) "Nonresident LLP statement" means:
  - (a) a statement of qualification of a domestic limited liability partnership that does not have an office in this state; or
  - (b) a statement of foreign qualification of a foreign limited liability partnership that does not have an office in this state.
- (17) "Organic law" means the statutes, if any, other than this chapter, governing the internal affairs of an entity.
- (18) "Organic rules" means the public organic document and private organic rules of an entity.
- (19) "Person" means an individual, corporation, estate, trust, partnership, limited liability company, business or similar trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (20) "Private organic rules" mean the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all of its interest holders, and are not part of its public organic document, if any.
- (21) "Public organic document" means the public record the filing of which creates an entity, and any amendment to or restatement of that record.
- (22) "Qualified foreign entity" means a foreign entity that is authorized to transact business in this state pursuant to a filing with the division.
- (23) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (24) "Registered agent" means a commercial registered agent or a noncommercial registered agent.
- (25) "Registered agent filing" means:
  - (a) the public organic document of a domestic filing entity;
  - (b) a nonresident LLP statement;
  - (c) a foreign qualification document; or
  - (d) an appointment of agent.
- (26) "Represented entity" means:
  - (a) a domestic filing entity;
  - (b) a domestic or qualified foreign limited liability partnership that does not have an office in this state;
  - (c) a qualified foreign entity;
  - (d) a domestic or foreign unincorporated nonprofit association for which an appointment of agent has been filed;
  - (e) a domestic entity that is not a filing entity for which an appointment of agent has been filed; or
  - (f) a nonqualified foreign entity for which an appointment of agent has been filed.

- (27) "Sign" means, with present intent to authenticate or adopt a record:
- (a) to execute or adopt a tangible symbol; or
  - (b) to attach to or logically associate with the record an electronic sound, symbol, or process.
- (28) "Transferable interest" means the right under an entity's organic law to receive distributions from the entity.
- (29) "Type," with respect to an entity, means a generic form of entity:
- (a) recognized at common law; or
  - (b) organized under an organic law, whether or not some entities organized under that organic law are subject to provisions of that law that create different categories of the form of entity.

Amended by Chapter 412, 2013 General Session

## **Part 2**

### **Registered Agents**

#### **16-17-201 Fees.**

Unless otherwise provided by statute, the division shall charge and collect fees for services as provided in Section 63J-1-504.

Amended by Chapter 183, 2009 General Session

#### **16-17-202 Addresses in filings.**

Whenever a provision of this chapter other than Subsection 16-17-209(1)(d) requires that a filing state an address, the filing shall state:

- (1) an actual street address or rural route box number in this state; and
- (2) a mailing address in this state, if different from the address under Subsection (1).

Amended by Chapter 378, 2010 General Session

#### **16-17-203 Appointment of registered agent.**

- (1) A registered agent filing shall state:
  - (a) the name of the represented entity's commercial registered agent; or
  - (b) if the entity does not have a commercial registered agent:
    - (i) the name and address of the entity's noncommercial registered agent; or
    - (ii) the title of an office or other position with the entity if service of process is to be sent to the person holding that office or position, and the address of the business office of that person.
- (2) The appointment of a registered agent pursuant to Subsection (1)(a) or (b)(i) is an affirmation by the represented entity that the agent has consented to serve as such.
- (3) The division shall make available in a record as soon as practicable a daily list of filings that contain the name of a registered agent. The list shall:
  - (a) be available for at least 14 calendar days;
  - (b) list in alphabetical order the names of the registered agents; and
  - (c) state the type of filing and name of the represented entity making the filing.

Amended by Chapter 378, 2010 General Session

**16-17-204 Listing of commercial registered agent.**

- (1) An individual or a domestic or foreign entity may become listed as a commercial registered agent by filing with the division a commercial registered agent listing statement signed by or on behalf of the person which states:
  - (a) the name of the individual or the name, type, and jurisdiction of organization of the entity;
  - (b) that the person is in the business of serving as a commercial registered agent in this state; and
  - (c) the address of a place of business of the person in this state to which service of process and other notice and documents being served on or sent to entities represented by it may be delivered.
- (2) A commercial registered agent listing statement may include the information regarding acceptance of service of process in a record by the commercial registered agent provided for in Subsection 16-17-301(4).
- (3) If the name of a person filing a commercial registered agent listing statement is not distinguishable on the records of the division from the name of another commercial registered agent listed under this section, the person shall adopt a fictitious name that is distinguishable and use that name in its statement and when it does business in this state as a commercial registered agent.
- (4) A commercial registered agent listing statement takes effect on filing.
- (5) The division shall note the filing of the commercial registered agent listing statement in the index of filings maintained by the division for each entity represented by the registered agent at the time of the filing. The statement has the effect of deleting the address of the registered agent from the registered agent filing of each of those entities.

Amended by Chapter 378, 2010 General Session

**16-17-205 Termination of listing of commercial registered agent.**

- (1) A commercial registered agent may terminate its listing as a commercial registered agent by filing with the division a commercial registered agent termination statement signed by or on behalf of the agent which states:
  - (a) the name of the agent as currently listed under Section 16-17-204; and
  - (b) that the agent is no longer in the business of serving as a commercial registered agent in this state.
- (2) A commercial registered agent termination statement takes effect on the 31st day after the day on which it is filed.
- (3) The commercial registered agent shall promptly furnish each entity represented by it with notice in a record of the filing of the commercial registered agent termination statement.
- (4) When a commercial registered agent termination statement takes effect, the registered agent ceases to be an agent for service of process on each entity formerly represented by it. Until an entity formerly represented by a terminated commercial registered agent appoints a new registered agent, service of process may be made on the entity as provided in Section 16-17-301. Termination of the listing of a commercial registered agent under this section does not affect any contractual rights a represented entity may have against the agent or that the agent may have against the entity.

Enacted by Chapter 364, 2008 General Session

**16-17-206 Change of registered agent by entity.**

- (1) A represented entity may change the information currently on file under Subsection 16-17-203(1) by filing with the division a statement of change signed on behalf of the entity which states:
  - (a) the name of the entity; and
  - (b) the information that is to be in effect as a result of the filing of the statement of change.
- (2) The interest holders or governors of a domestic entity need not approve the filing of:
  - (a) a statement of change under this section; or
  - (b) a similar filing changing the registered agent or registered office of the entity in any other jurisdiction.
- (3) The appointment of a registered agent pursuant to Subsection (1) is an affirmation by the represented entity that the agent has consented to serve as such.
- (4) A statement of change filed under this section takes effect on filing.
- (5) As an alternative to using the procedures in this section, a represented entity may change the information currently on file under Subsection 16-17-203(1) by amending its most recent registered agent filing in the manner provided by the laws of this state other than this chapter for amending that filing.

Enacted by Chapter 364, 2008 General Session

**16-17-207 Change of name or address by noncommercial registered agent.**

- (1) If a noncommercial registered agent changes its name or its address as currently in effect with respect to a represented entity pursuant to Subsection 16-17-203(1), the agent shall file with the division, with respect to each entity represented by the agent, a statement of change signed by or on behalf of the agent which states:
  - (a) the name of the entity;
  - (b) the name and address of the agent as currently in effect with respect to the entity;
  - (c) if the name of the agent has changed, its new name; and
  - (d) if the address of the agent has changed, the new address.
- (2) A statement of change filed under this section takes effect on filing.
- (3) A noncommercial registered agent shall promptly furnish the represented entity with notice in a record of the filing of a statement of change and the changes made by the filing.

Enacted by Chapter 364, 2008 General Session

**16-17-208 Change of name, address, or type of organization by commercial registered agent.**

- (1) If a commercial registered agent changes its name, its address as currently listed under Subsection 16-17-204(1), or its type or jurisdiction of organization, the agent shall file with the division a statement of change signed by or on behalf of the agent which states:
  - (a) the name of the agent as currently listed under Subsection 16-17-204(1);
  - (b) if the name of the agent has changed, its new name;
  - (c) if the address of the agent has changed, the new address; and
  - (d) if the type or jurisdiction of organization of the agent has changed, the new type or jurisdiction of organization.
- (2) The filing of a statement of change under Subsection (1) is effective to change the information regarding the commercial registered agent with respect to each entity represented by the agent.
- (3) A statement of change filed under this section takes effect on filing.

- (4) A commercial registered agent shall promptly furnish each entity represented by it with notice in a record of the filing of a statement of change relating to the name or address of the agent and the changes made by the filing.
- (5) If a commercial registered agent changes its address without filing a statement of change as required by this section, the division may cancel the listing of the agent under Section 16-17-204. A cancellation under this Subsection (5) has the same effect as a termination under Section 16-17-205. Promptly after canceling the listing of an agent, the division shall serve notice in a record in the manner provided in Subsection 16-17-301(2) or (3) on:
  - (a) each entity represented by the agent, stating that the agent has ceased to be an agent for service of process on the entity and that, until the entity appoints a new registered agent, service of process may be made on the entity as provided in Section 16-17-301; and
  - (b) the agent, stating that the listing of the agent has been canceled under this section.

Enacted by Chapter 364, 2008 General Session

**16-17-209 Resignation of registered agent.**

- (1) A registered agent may resign at any time with respect to a represented entity by filing with the division a statement of resignation signed by or on behalf of the agent which states:
  - (a) the name of the entity;
  - (b) the name of the agent;
  - (c) that the agent resigns from serving as agent for service of process for the entity; and
  - (d) the name and address of the person to which the agent will send the notice required by Subsection (3).
- (2) A statement of resignation takes effect on the earlier of the 31st day after the day on which it is filed or the appointment of a new registered agent for the represented entity.
- (3) The registered agent shall promptly furnish the represented entity notice in a record of the date on which a statement of resignation was filed.
- (4) When a statement of resignation takes effect, the registered agent ceases to have responsibility for any matter tendered to it as agent for the represented entity. A resignation under this section does not affect any contractual rights the entity has against the agent or that the agent has against the entity.
- (5) A registered agent may resign with respect to a represented entity whether or not the entity is registered with the division.

Amended by Chapter 149, 2018 General Session

**16-17-210 Appointment of agent by nonfiling or nonqualified foreign entity.**

- (1) A domestic entity that is not a filing entity or a nonqualified foreign entity may file with the division a statement appointing an agent for service of process signed on behalf of the entity which states:
  - (a) the name, type, and jurisdiction of organization of the entity; and
  - (b) the information required by Subsection 16-17-203(1).
- (2) A statement appointing an agent for service of process takes effect on filing.
- (3) The appointment of a registered agent under this section does not qualify a nonqualified foreign entity to do business in this state and is not sufficient alone to create personal jurisdiction over the nonqualified foreign entity in this state.
- (4) A statement appointing an agent for service of process may not be rejected for filing because the name of the entity filing the statement is not distinguishable on the records of the division

from the name of another entity appearing in those records. The filing of a statement appointing an agent for service of process does not make the name of the entity filing the statement unavailable for use by another entity.

- (5) An entity that has filed a statement appointing an agent for service of process may cancel the statement by filing a statement of cancellation, which shall take effect upon filing, and shall state the name of the entity and that the entity is canceling its appointment of an agent for service of process in this state. A statement appointing an agent for service of process which has not been canceled earlier is effective for a period of five years after the date of filing.
- (6) A statement appointing an agent for service of process for a nonqualified foreign entity terminates automatically on the date the entity becomes a qualified foreign entity.

Amended by Chapter 378, 2010 General Session

### **Part 3**

### **Service of Process and Duties**

#### **16-17-301 Service of process on entities.**

- (1) A registered agent is an agent of the represented entity authorized to receive service of any process, notice, or demand required or permitted by law to be served on the entity.
- (2) If an entity that previously filed a registered agent filing with the division no longer has a registered agent, or if its registered agent cannot with reasonable diligence be served, the entity may be served by registered or certified mail, return receipt requested, addressed to the governors of the entity by name at its principal office in accordance with any applicable judicial rules and procedures. The names of the governors and the address of the principal office may be as shown in the most recent annual report filed with the division. Service is perfected under this Subsection (2) at the earliest of:
  - (a) the date the entity receives the mail;
  - (b) the date shown on the return receipt, if signed on behalf of the entity; or
  - (c) five days after its deposit with the United States Postal Service, if correctly addressed and with sufficient postage.
- (3) If process, notice, or demand cannot be served on an entity pursuant to Subsection (1) or (2), service of process may be made by handing a copy to the manager, clerk, or other person in charge of any regular place of business or activity of the entity if the person served is not a plaintiff in the action.
- (4) Service of process, notice, or demand on a registered agent shall be in the form of a written document, except that service may be made on a commercial registered agent in such other forms of a record, and subject to such requirements as the agent has stated from time to time in its listing under Section 16-17-204 that it will accept.
- (5) Service of process, notice, or demand may be perfected by any other means prescribed by law other than this chapter.

Amended by Chapter 378, 2010 General Session

#### **16-17-302 Duties of registered agent.**

The only duties under this chapter of a registered agent that has complied with this chapter are:

- (1) to forward to the represented entity at the address most recently supplied to the agent by the entity any process, notice, or demand that is served on the agent;
- (2) to provide the notices required by this chapter to the entity at the address most recently supplied to the agent by the entity;
- (3) if the agent is a noncommercial registered agent, to keep current the information required by Subsection 16-17-203(1) in the most recent registered agent filing for the entity; and
- (4) if the agent is a commercial registered agent, to keep current the information listed for it under Subsection 16-17-204(1).

Enacted by Chapter 364, 2008 General Session

## **Part 4**

### **Miscellaneous Provisions**

#### **16-17-401 Jurisdiction and venue.**

The appointment or maintenance in this state of a registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this state. The address of the agent does not determine venue in an action or proceeding involving the entity.

Enacted by Chapter 364, 2008 General Session

#### **16-17-402 Consistency of application.**

In applying and construing this chapter, consideration shall be given to the need to promote consistency of the law with respect to its subject matter among states that enact it.

Amended by Chapter 378, 2010 General Session

#### **16-17-403 Relation to Electronic Signatures in Global and National Commerce Act.**

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

Enacted by Chapter 364, 2008 General Session

#### **16-17-404 Savings clause.**

This chapter does not affect an action or proceeding commenced or right accrued before the effective date of this chapter.

Enacted by Chapter 364, 2008 General Session