

**REVISED CORPORATION ACT AMENDMENTS**

1999 GENERAL SESSION

STATE OF UTAH

**Sponsor: Afton B. Bradshaw**

AN ACT RELATING TO CORPORATIONS; ADDRESSING APPEALS FROM DENIALS OF REINSTATEMENTS; CLARIFYING SERVICE; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**16-10a-504**, as enacted by Chapter 277, Laws of Utah 1992

**16-10a-1421**, as enacted by Chapter 277, Laws of Utah 1992

**16-10a-1422**, as enacted by Chapter 277, Laws of Utah 1992

**16-10a-1423**, as enacted by Chapter 277, Laws of Utah 1992

**16-10a-1511**, as enacted by Chapter 277, Laws of Utah 1992

**16-10a-1531**, as enacted by Chapter 277, Laws of Utah 1992

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **16-10a-504** is amended to read:

**16-10a-504. Service on corporation.**

(1) Except as provided in Subsection (3), the division may serve a corporation by first-class, postage prepaid United States mail.

~~[(1)]~~ (2) A corporation's registered agent is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the corporation.

~~[(2)]~~ (3) (a) If a corporation has no registered agent, or the agent cannot with reasonable diligence be served, the corporation may be served by mail that is:

(i) registered or certified ~~[mail,];~~

(ii) return receipt requested~~[,]; and~~

(iii) addressed to the corporation at its principal office.

(b) Service is perfected under this Subsection (3) at the earliest of:

~~[(a)]~~ (i) the date the corporation receives the process, notice, or demand;

~~[(b)]~~ (ii) the date shown on the return receipt, if signed on behalf of the corporation; or

~~[(c)]~~ (iii) five days after mailing.

~~[(3)]~~ (4) This section does not prescribe the only means, or necessarily the required means, of serving a corporation.

Section 2. Section **16-10a-1421** is amended to read:

**16-10a-1421. Procedure for and effect of administrative dissolution.**

(1) If the division determines that one or more grounds exist under Section 16-10a-1420 for dissolving a corporation, it shall serve the corporation in the manner provided in Section 16-10a-504 with written notice of [its]:

(a) the division's determination~~[, stating]~~ that one or more grounds exist for dissolving; and

(b) the grounds ~~[in the manner provided in Section 16-10a-504]~~ for dissolving the corporation.

(2) (a) If the corporation does not correct each ground for dissolution, or demonstrate to the reasonable satisfaction of the division that each ground does not exist, within 60 days after service of the notice contemplated by Subsection (1), the division may administratively dissolve the corporation.

(b) The division shall serve written notice of the administrative dissolution on the dissolved corporation~~[, stating the effective date thereof,]~~ in the manner provided in Section 16-10a-504, stating the effective date of the dissolution.

(c) The division shall deliver a copy of the notice to the last registered agent of the dissolved corporation.

(3) A corporation administratively dissolved continues its corporate existence but may not carry on any business except the business necessary to wind up and liquidate its business and affairs under Section 16-10a-1405 and to give notice to claimants in the manner provided in Sections 16-10a-1406 and 16-10a-1407.

(4) The administrative dissolution of a corporation does not terminate the authority of its registered agent.

(5) Upon the administrative dissolution of a corporation, the division shall be an agent of the dissolved corporation for purposes of service of process. Service of process on the division

under this Subsection (5) is service on the dissolved corporation. Upon receipt of process, the division shall deliver a copy of the process to the dissolved corporation at its principal office.

Section 3. Section **16-10a-1422** is amended to read:

**16-10a-1422. Reinstatement following administrative dissolution.**

(1) A corporation administratively dissolved under Section 16-10a-1421 may apply to the division for reinstatement within two years after the effective date of dissolution by delivering to the division for filing an application for reinstatement that states:

- (a) the effective date of its administrative dissolution and its corporate name as of that date;
- (b) that the grounds for dissolution either did not exist or have been eliminated;
- (c) the corporate name under which the corporation is being reinstated and that the name satisfies the requirements of Section 16-10a-401;

(d) that all taxes, fees, or penalties imposed pursuant to this chapter, otherwise owed by the corporation to the State Tax Commission, or otherwise imposed by applicable laws of this state have been paid;

(e) the address of its registered office in this state and the name of its registered agent at that office; and

- (f) any additional information the division determines to be necessary or appropriate.

(2) The corporation shall include in or with the application for reinstatement the written consent to appointment by the designated registered agent, and a certificate from the State Tax Commission reciting that all taxes owed by the corporation have been paid.

(3) If the division determines that the application for reinstatement contains the information required by Subsections (1) and (2) and that the information is correct, the division shall revoke the administrative dissolution. The division shall serve the corporation in the manner provided in Section 16-10a-504 with written notice of:

- (a) the revocation~~[-stating]; and~~
- (b) the effective date~~[- in the manner provided in Section 16-10a-504]~~ of the revocation.

(4) When the reinstatement is effective, it relates back to the effective date of the administrative dissolution and the corporation may carry on its business, under the name stated

pursuant to Subsection (1)(c), as if the administrative dissolution had never occurred.

Section 4. Section **16-10a-1423** is amended to read:

**16-10a-1423. Appeal from denial of reinstatement.**

~~[(1)]~~ If the division denies a corporation's application for reinstatement following administrative dissolution, the division shall serve the corporation in the manner provided in Section 16-10a-504 with written notice:

~~(1)~~ setting forth the reasons for denying the application [~~in the manner provided in Section 16-10a-504.~~]; and

~~(2)~~ stating that the corporation has the right to appeal the division's determination to the executive director of the Department of Commerce in accordance with Title 63, Chapter 46b, Administrative Procedures Act.

~~[(2)]~~ The corporation may appeal the denial of reinstatement to the district court in a county in this state in which the principal or registered office of the corporation is located, or in Salt Lake County, within 30 days after service of the notice of denial is perfected under Section 16-10a-504. The corporation appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the division's notice of dissolution, the corporation's application for reinstatement, and the division's notice of denial.]

~~[(3)]~~ The court may summarily order the division to reinstate the dissolved corporation or may take other action the court considers appropriate.]

~~[(4)]~~ The court's final decision may be appealed as in other civil proceedings.]

Section 5. Section **16-10a-1511** is amended to read:

**16-10a-1511. Service on foreign corporation.**

~~(1)~~ Except as provided in Subsection (3), the division may serve a foreign corporation by first-class, postage prepaid United States mail.

~~[(1)]~~ ~~(2)~~ The registered agent of a foreign corporation authorized to transact business in this state is the foreign corporation's agent for service of process, notice, or demand required or permitted by law to be served on the foreign corporation.

~~[(2)]~~ ~~(3)~~ (a) If a foreign corporation authorized to transact business in this state has no

registered agent or if the registered agent cannot with reasonable diligence be served, the foreign corporation may be served by mail that is:

(i) registered or certified [mail];

(ii) return receipt requested[;]; and

(iii) addressed to the foreign corporation at its principal office.

(b) Service is perfected under this Subsection (3) at the earliest of:

[~~(a)~~] (i) the date the foreign corporation receives the process, notice, or demand;

[~~(b)~~] (ii) the date shown on the return receipt, if signed on behalf of the foreign corporation;

or

[~~(c)~~] (iii) five days after mailing.

[~~(3)~~] (4) This section does not prescribe the only means, or necessarily the required means, of serving a foreign corporation authorized to transact business in this state.

Section 6. Section **16-10a-1531** is amended to read:

**16-10a-1531. Procedure for and effect of revocation.**

(1) If the division determines that one or more grounds exist under Section 16-10a-1530 for revoking the authority of a foreign corporation to transact business in this state, the division shall serve the foreign corporation in the manner provided in Section 16-10a-1511 with written notice of [its]:

(a) the division's determination [stating] that one or more grounds exist for revocation; and

(b) the grounds[; in the manner provided in Section 16-10a-1511] for revocation.

(2) (a) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the division that each ground determined by the division does not exist, within 60 days after service of the notice under Subsection (1), the division may revoke the foreign corporation's authority to transact business in this state.

(b) The division shall serve [a written notice of the revocation] on the foreign corporation [stating] in the manner provided in Section 16-10a-1511 a written notice of:

(i) revocation; and

(ii) the effective date of the revocation[; in the manner provided in Section 16-10a-1511].

(c) The division shall deliver a copy of the notice to the last registered agent of the foreign corporation.

(3) The authority of a foreign corporation to transact business in this state ceases on the date shown on the division's certificate revoking the corporation's certificate of authority.

(4) Revocation of a foreign corporation's authority to transact business in this state does not terminate the authority of the registered agent of the corporation.

(5) Upon the revocation of a foreign corporation's authority to transact business in this state, the division becomes an agent for the foreign corporation for service of process in any proceeding based on a cause of action which arose during the time the foreign corporation transacted business in this state or was authorized to transact business in this state. Service of process on the division under this Subsection (5) is service on the foreign corporation. Upon receipt of process, the division shall mail a copy of the process to the foreign corporation at its principal office.