

1                                   **REVISED CORPORATION ACT AMENDMENTS**

2   1999 GENERAL SESSION

3   STATE OF UTAH

4   **Sponsor: Afton B. Bradshaw**

5 AN ACT RELATING TO CORPORATIONS; ADDRESSING APPEALS FROM DENIALS OF  
6 REINSTATEMENTS; CLARIFYING SERVICE; AND MAKING TECHNICAL  
7 CORRECTIONS.

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

9 AMENDS:

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

11           **16-10a-1421**, as enacted by Chapter 277, Laws of Utah 1992

12           **16-10a-1422**, as enacted by Chapter 277, Laws of Utah 1992

13           **16-10a-1423**, as enacted by Chapter 277, Laws of Utah 1992

14           **16-10a-1511**, as enacted by Chapter 277, Laws of Utah 1992

15           **16-10a-1531**, as enacted by Chapter 277, Laws of Utah 1992

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

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

18           **16-10a-504. Service on corporation.**

19           (1) Except as provided in Subsection (3), a corporation may be served by first-class,  
20 postage prepaid United States mail.

21           ~~[(1)]~~ (2) A corporation's registered agent is the corporation's agent for service of process,  
22 notice, or demand required or permitted by law to be served on the corporation.

23           ~~[(2)]~~ (3) (a) If a corporation has no registered agent, or the agent cannot with reasonable  
24 diligence be served, the corporation may be served by mail that is:

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

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

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

28 (b) Service is perfected under this Subsection (3) at the earliest of:  
29 [(a)] (i) the date the corporation receives the process, notice, or demand;  
30 [(b)] (ii) the date shown on the return receipt, if signed on behalf of the corporation; or  
31 [(c)] (iii) five days after mailing.  
32 [(3)] (4) This section does not prescribe the only means, or necessarily the required means,  
33 of serving a corporation.

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

35 **16-10a-1421. Procedure for and effect of administrative dissolution.**

36 (1) If the division determines that one or more grounds exist under Section 16-10a-1420  
37 for dissolving a corporation, it shall serve the corporation in the manner provided in Section  
38 16-10a-504 with written notice of [its]:

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

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

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

47 (b) The division shall serve written notice of the administrative dissolution on the  
48 dissolved corporation~~[, stating the effective date thereof,]~~ in the manner provided in Section  
49 16-10a-504, stating the effective date of the dissolution.

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

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

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

58 (5) Upon the administrative dissolution of a corporation, the division shall be an agent of

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

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

63 **16-10a-1422. Reinstatement following administrative dissolution.**

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

67 (a) the effective date of its administrative dissolution and its corporate name as of that  
68 date;

69 (b) that the grounds for dissolution either did not exist or have been eliminated;

70 (c) the corporate name under which the corporation is being reinstated and that the name  
71 satisfies the requirements of Section 16-10a-401;

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

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

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

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

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

85 (a) the revocation~~[, stating]; and~~

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

87 (4) When the reinstatement is effective, it relates back to the effective date of the  
88 administrative dissolution and the corporation may carry on its business, under the name stated  
89 pursuant to Subsection (1)(c), as if the administrative dissolution had never occurred.

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

91 **16-10a-1423. Appeal from denial of reinstatement.**

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

95 ~~(1)~~ setting forth the reasons for denying the application [~~in the manner provided in Section~~  
96 ~~16-10a-504.~~]; and

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

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

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

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

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

110 **16-10a-1511. Service on foreign corporation.**

111 ~~(1)~~ Except as provided in Subsection (3), a foreign corporation may be served by  
112 first-class, postage prepaid United States mail.

113 ~~[(1)]~~ ~~(2)~~ The registered agent of a foreign corporation authorized to transact business in  
114 this state is the foreign corporation's agent for service of process, notice, or demand required or  
115 permitted by law to be served on the foreign corporation.

116 ~~[(2)]~~ ~~(3)~~ ~~(a)~~ If a foreign corporation authorized to transact business in this state has no  
117 registered agent or if the registered agent cannot with reasonable diligence be served, the foreign  
118 corporation may be served by mail that is:

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

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

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

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

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

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

125 corporation; or

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

127 [(3)] (4) This section does not prescribe the only means, or necessarily the required means,  
128 of serving a foreign corporation authorized to transact business in this state.

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

130 **16-10a-1531. Procedure for and effect of revocation.**

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

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

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

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

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

143 (i) revocation; and

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

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

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

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

151 (5) Upon the revocation of a foreign corporation's authority to transact business in this

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

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**Legislative Review Note****as of 12-22-98 1:48 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**