

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 38

Short Title: No Annual Corp. Report/Fee.

(Public)

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Sponsors: Representatives Allred; Brown, Buchanan, Cansler, Clary, Culp, Decker, Fox, Gulley, Hiatt, Justus, Morris, Reynolds, Shubert, and Thompson.

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Referred to: Finance.

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February 4, 1997

A BILL TO BE ENTITLED

1 AN ACT TO REPEAL THE REQUIREMENTS THAT CORPORATIONS FILE  
2 ANNUAL REPORTS WITH AND PAY ANNUAL REPORT FILING FEES TO  
3 THE OFFICE OF THE SECRETARY OF STATE.  
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 55, 55-1-28(b)(4), 55-5-02(c), 55-14-20(2), 55-15-08(c), 55-  
7 15-30(1), and 55-16-22 are repealed.

8 Section 2. G.S. 55-1-21(a) reads as rewritten:

9 "(a) The Secretary of State may promulgate and furnish on request forms for:

- 10 (1) An application for a certificate of existence;  
11 (2) A foreign corporation's application for a certificate of authority to  
12 transact business in this State;  
13 (3) A foreign corporation's application for a certificate of withdrawal; ~~and~~  
14 (4) ~~The annual report.~~ Designation of Principal Office Address; and  
15 (5) Corporation's Statement of Change of Principal Office.

16 If the Secretary of State so requires, use of these forms is mandatory."

17 Section 3. G.S. 55-1-22(a) reads as rewritten:

18 "(a) The Secretary of State shall collect the following fees when the documents  
19 described in this subsection are delivered to him for filing:

	Document	Fee
1		
2	(1) Articles of incorporation	\$100.00
3	(2) Application for reserved name	10.00
4	(3) Notice of transfer of reserved name	10.00
5	(4) Application for registered name	10.00
6	(5) Application for renewal of	
7	registered name	10.00
8	(6) Corporation's statement of change of	
9	registered agent or registered	
10	office or both	5.00
11	(7) Agent's statement of change of	
12	registered office for each affected	
13	corporation	5.00
14	(8) Agent's statement of resignation	No fee
15	(9) Designation of registered agent or	
16	registered office or both	5.00
17	(10) Amendment of articles of	
18	incorporation	50.00
19	(11) Restated articles of incorporation	10.00
20	with amendment of articles	50.00
21	(12) Articles of merger or share exchange	50.00
22	(13) Articles of dissolution	30.00
23	(14) Articles of revocation of	
24	dissolution	10.00
25	(15) Certificate of administrative	
26	dissolution	No fee
27	(16) Application for reinstatement	
28	following administrative dissolution	25.00
29	(17) Certificate of reinstatement	No fee
30	(18) Certificate of judicial dissolution	No fee
31	(19) Application for certificate of	
32	authority	200.00
33	(20) Application for amended certificate	
34	of authority	50.00
35	(21) Application for certificate of	
36	withdrawal	10.00
37	(22) Certificate of revocation of	
38	authority to transact business	No fee
39	<del>(23) Annual report-Corporation's</del>	
40	<del>Statement of Change of Principal Office</del>	<del>10.00</del> 5.00
41	<u>(23a) Designation of Principal Office</u>	
42	<u>Address</u>	5.00
43	(24) Articles of correction	10.00

- 1 (25) Application for certificate of  
2 existence or authorization 5.00  
3 (26) Any other document required or  
4 permitted to be filed by this Chapter 10.00."

5 Section 4. G.S. 55-1-40(17) reads as rewritten:

6 "(17) 'Principal office' means the office (in or out of this State) so designated  
7 in the ~~annual report~~ articles of incorporation, the Designation of Principal  
8 Office Address form, or in any subsequent Corporation's Statement of  
9 Change of Principal Office Address form filed with the Secretary of  
10 State where the principal executive offices of a domestic or foreign  
11 corporation are located."

12 Section 5. G.S. 55-1-41(d) reads as rewritten:

13 "(d) Written notice to a domestic or foreign corporation (authorized to transact  
14 business in this State) may be addressed to its registered agent at its registered office or to  
15 the corporation or its secretary at its principal office shown in its ~~most recent annual report~~  
16 ~~on file in the office of the Secretary of State or, in the case of a foreign corporation that has not~~  
17 ~~yet delivered an annual report, in its application for a certificate of authority. articles of~~  
18 incorporation, the Designation of Principal Office Address form, or any Corporation's  
19 Statement of Change of Principal Office Address form filed with the Secretary of State."

20 Section 6. G.S. 55-2-02 reads as rewritten:

- 21 "(a) The articles of incorporation must set forth:  
22 (1) A corporate name for the corporation that satisfies the requirements of  
23 G.S. 55-4-01;  
24 (2) The number of shares the corporation is authorized to issue and any  
25 other information required by G.S. 55-6-01;  
26 (3) The street address, and the mailing address if different from the street  
27 address, of the corporation's initial registered office, the county in which  
28 the initial registered office is located, and the name of the corporation's  
29 initial registered agent at that address; ~~and~~  
30 (4) The name and address of each ~~incorporator~~ incorporator; and  
31 (5) The street address, and the mailing address, if different from the street  
32 address, of the principal office, and the county in which the principal  
33 office is located."

34 Section 7. Article 5 of Chapter 55 of the General Statutes is amended by  
35 adding a new section to read:

36 "**§ 55-5-02.1. Principal office address.**

37 (a) Any corporation that does not designate the street address and the mailing  
38 address, if different from the street address, of the corporation's principal office and the  
39 county of location in an annual report or its articles of incorporation shall file a  
40 Designation of Principal Office Address form with the Secretary of State that contains  
41 that information.

1 (b) A corporation may change its principal office by delivering to the Secretary of  
2 State for filing a Corporation's Statement of Change of Principal Office Address form  
3 that sets forth:

4 (1) The street address, and the mailing address if different from the street  
5 address, of the corporation's current principal office and the county in  
6 which it is located; and

7 (2) The street address, and the mailing address if different from the street  
8 address, of the new principal office and the county in which it is  
9 located."

10 Section 8. G.S. 55-5-03(b) reads as rewritten:

11 "(b) After filing the statement the Secretary of State shall mail one copy to the  
12 registered office (if not discontinued) and the other copy to the corporation at its principal  
13 ~~office shown in its most recent annual report.~~ office."

14 Section 9. G.S. 55-5-04(b) reads as rewritten:

15 "(b) Whenever a corporation shall fail to appoint or maintain a registered agent in  
16 this State, or whenever its registered agent cannot with due diligence be found at the  
17 registered office, then the Secretary of State shall be an agent of such corporation upon  
18 whom any such process, notice or demand may be served. Service on the Secretary of  
19 State of any such process, notice or demand shall be made by delivering to and leaving  
20 with him or with any clerk having charge of the corporation department of his office,  
21 duplicate copies of such process, notice or demand. In the event any such process, notice  
22 or demand is served on the Secretary of State, he shall immediately mail one of the  
23 copies thereof, by registered or certified mail, return receipt requested, to the corporation  
24 at its principal office shown in its most recent annual ~~report~~ report, if applicable, the  
25 articles of incorporation, the Designation of Principal Office Address form, in any  
26 subsequent Corporation's Statement of Change of Principal Office Address form, or in  
27 any subsequent communication received from the corporation stating the current mailing  
28 address of its principal office or, if there is no mailing address for the principal office on  
29 file, to the corporation at its registered office. Service on a corporation under this  
30 subsection shall be effective for all purposes from and after the date of such service on  
31 the Secretary of State."

32 Section 10. G.S. 55-15-09(b) reads as rewritten:

33 "(b) After filing the statement, the Secretary of State shall mail one copy to the  
34 registered office (if not discontinued) and the other copy to the foreign corporation at its  
35 principal ~~office shown in its most recent annual report.~~ office."

36 Section 11. G.S. 55-15-10(b) reads as rewritten:

37 "(b) Whenever a foreign corporation authorized to transact business in this State  
38 shall fail to appoint or maintain a registered agent in this State, or whenever its registered  
39 agent cannot with due diligence be found at the registered office, or whenever its  
40 certificate of authority shall have been revoked under G.S. 55-15-31, then the Secretary  
41 of State shall be an agent of such corporation upon whom any such process, notice or  
42 demand may be served. Service on the Secretary of State of any such process, notice or  
43 demand shall be made by delivering to and leaving with him or with any clerk having

1 charge of the corporation department of his office, duplicate copies of such process,  
2 notice or demand. In the event any such process, notice or demand is served on the  
3 Secretary of State, he shall immediately mail one of the copies thereof, by registered or  
4 certified mail, return receipt requested, to the corporation at its principal office shown in  
5 its most recent annual ~~report~~ report, if applicable, the articles of incorporation, the  
6 Designation of Principal Office Address form, in any subsequent Corporation's Statement  
7 of Change of Principal Office Address form, or in any subsequent communication  
8 received from the corporation stating the current mailing address of its principal office or,  
9 if there is no mailing address for the principal office on file, to the corporation at its  
10 registered office. Service on a foreign corporation under this subsection shall be effective  
11 for all purposes from and after the date of such service on the Secretary of State."

12 Section 12. Effective July 1, 1998, G.S. 55-14-20, as amended by Section 1 of  
13 this act, reads as rewritten:

14 "**§ 55-14-20. Grounds for administrative dissolution.**

15 The Secretary of State may commence a proceeding under G.S. 55-14-21 to dissolve  
16 administratively a corporation if:

- 17 (1) The corporation does not pay within 60 days after they are due any  
18 penalties, fees, or other payments due under this Chapter;
- 19 (2) The corporation does not deliver its annual report to the Secretary of  
20 State within 60 days after it is due;
- 21 (3) The corporation is without a registered agent or registered office in this  
22 State for 60 days or more;
- 23 (4) The corporation does not notify the Secretary of State within 60 days  
24 that its registered agent or registered office has been changed, that its  
25 registered agent has resigned, or that its registered office has been  
26 discontinued;
- 27 (5) The corporation's period of duration stated in its articles of  
28 incorporation expires; ~~or~~
- 29 (6) The corporation knowingly fails or refuses to answer truthfully and fully  
30 within the time prescribed in this Chapter interrogatories propounded by  
31 the Secretary of State in accordance with the provisions of this ~~Chapter~~.  
32 Chapter; or
- 33 (7) The corporation does not designate the address of its principal office  
34 with the Secretary of State or does not notify the Secretary of State  
35 within 60 days that the principal office has changed."

36 Section 13. G.S. 55-16-01(e) reads as rewritten:

- 37 "(e) A corporation shall keep a copy of the following records at its principal office:
- 38 (1) Its articles or restated articles of incorporation and all amendments to  
39 them currently in ~~effect~~; effect.
  - 40 (2) Its bylaws or restated bylaws and all amendments to them currently in  
41 ~~effect~~; effect.
  - 42 (3) Resolutions adopted by its board of directors creating one or more  
43 classes or series of shares, and fixing their relative rights, preferences,

- 1                   and limitations, if shares issued pursuant to those resolutions are  
2                   ~~outstanding;~~ outstanding.
- 3           (4)       The minutes of all shareholders' meetings, and records of all action  
4           taken by shareholders without a meeting, for the past three ~~years;~~ years.
- 5           (5)       All written communications to shareholders generally within the past  
6           three years and the financial statements required to be made available to  
7           the shareholders for the past three years under ~~G.S. 55-16-20;~~ G.S. 55-  
8           16-20.
- 9           (6)       A list of the names and business addresses of its current directors and  
10          ~~officers;~~ and officers.
- 11          (7)       ~~Its most recent annual report delivered to the Secretary of State under~~  
12          ~~G.S. 55-16-22."~~

13           Section 14. Section 12 of this act becomes effective July 1, 1998, and applies  
14 to proceedings commenced on or after that date. The remainder of this act becomes  
15 effective January 1, 1998.