

By: Representatives Stevens, Ellington

To: Judiciary A

## HOUSE BILL NO. 1040

1 AN ACT TO AMEND SECTION 79-4-16.22, MISSISSIPPI CODE OF 1972,  
2 TO REQUIRE CERTAIN CORPORATIONS TO FILE THEIR ANNUAL REPORTS WITH  
3 THE STATE TAX COMMISSION AND TO PROVIDE THAT THE FEES COLLECTED  
4 FOR FILING THE ANNUAL REPORTS SHALL BE TRANSFERRED TO THE STATE  
5 GENERAL FUND; TO AMEND SECTIONS 79-4-1.20 AND 79-4-1.22,  
6 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED  
7 PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** Section 79-4-16.22, Mississippi Code of 1972, is  
10 amended as follows:

11 79-4-16.22. (a) Each domestic corporation, and each foreign  
12 corporation authorized to transact business in this state, shall  
13 deliver within two and one-half (2-1/2) months, unless an  
14 extension is approved, of its fiscal year end, or such other date  
15 as may be established by the State Tax Commission, to the State  
16 Tax Commission for filing an annual report that sets forth:

17 (1) The name of the corporation and the state or  
18 country under whose law it is incorporated;

19 (2) The address of its registered office and the name  
20 of its registered agent at that office in this state;

21 (3) The address of its principal office;

22 (4) The names and business addresses of its directors  
23 and principal officers;

24 (5) A brief description of the nature of its business;

25 (6) The total number of authorized shares, itemized by  
26 class and series, if any, within each class; and

27 (7) The total number of issued and outstanding shares,  
28 itemized by class and series, if any, within each class.

29 (b) Information in the annual report must be current as of  
30 the date the annual report is executed on behalf of the  
31 corporation.

32 (c) If an annual report does not contain the information  
33 required by this section, the State Tax Commission shall notify  
34 promptly the reporting domestic or foreign corporation in writing  
35 and return the report to it for correction. If the report is  
36 corrected to contain the information required by this section and  
37 delivered to the State Tax Commission within thirty (30) days  
38 after the effective date of notice, it is deemed to be timely  
39 filed.

40 (d) A fee of Twenty-five Dollars (\$25.00) shall be collected  
41 by the State Tax Commission for the filing of each annual report  
42 and the proceeds of the fee shall be transferred to the State  
43 General Fund.

44 **SECTION 2.** Section 79-4-1.20, Mississippi Code of 1972, is  
45 amended as follows:

46 79-4-1.20. (a) A document must satisfy the requirements of  
47 this section, and of any other section that adds to or varies  
48 these requirements, to be entitled to filing by the Secretary of  
49 State.

50 (b) Except as otherwise provided by this act, Section  
51 79-4-1.01 et seq. must require or permit filing the document in  
52 the Office of the Secretary of State.

53 (c) The document must contain the information required by  
54 Section 79-4-1.01 et seq. It may contain other information as  
55 well.

56 (d) The document must be typewritten or printed, or, if  
57 electronically transmitted, it must be in a format that can be  
58 retrieved or reproduced by the Secretary of State in typewritten  
59 or printed form.

60 (e) The document must be in the English language. A  
61 corporate name need not be in English if written in English

62 letters or Arabic or Roman numerals, and the certificate of  
63 existence required of foreign corporations need not be in English  
64 if accompanied by a reasonably authenticated English translation.

65 (f) The document must be executed:

66 (1) By the chairman of the board of directors of a  
67 domestic or foreign corporation, by its president, or by another  
68 of its officers;

69 (2) If directors have not been selected or the  
70 corporation has not been formed, by an incorporator; or

71 (3) If the corporation is in the hands of a receiver,  
72 trustee or other court-appointed fiduciary, by that fiduciary.

73 (g) The person executing the document shall sign it and  
74 state beneath or opposite his signature his name and the capacity  
75 in which he signs. The document may but need not contain a  
76 corporate seal, an attestation, acknowledgment or verification. A  
77 document required or permitted to be filed under this chapter  
78 which contains a copy of a signature, however made, is acceptable  
79 for filing.

80 (h) If the Secretary of State has prescribed a mandatory  
81 form for the document under Section 79-4-1.21, the document must  
82 be in or on the prescribed form.

83 (i) Except as otherwise provided by this act, the document  
84 must be delivered to the Office of the Secretary of State for  
85 filing. Delivery may be made by electronic transmission if, to  
86 the extent and in the manner permitted by the Secretary of State.  
87 If it is filed in typewritten or printed form and not transmitted  
88 electronically, the Secretary of State may require one (1) exact  
89 or conformed copy to be delivered with the document except as  
90 provided in Sections 79-4-5.03 and 79-4-15.09.

91 (j) When the document is delivered to the Office of the  
92 Secretary of State for filing, the correct filing fee, and any  
93 franchise tax, license fee, or penalty required to be paid  
94 therewith by this section or any other law must be paid or

95 provision for payment made in a manner permitted by the Secretary  
96 of State.

97 (k) Whenever a provision of this chapter permits any of the  
98 terms of a plan or a filed document to be dependent on facts  
99 objectively ascertainable outside the plan or filed document, the  
100 following provisions apply:

101 (1) The manner in which the facts will operate upon the  
102 terms of the plan or filed document shall be set forth in the plan  
103 or filed document.

104 (2) The facts may include, but are not limited to:

105 (i) Any of the following that is available in a  
106 nationally recognized news or information medium either in print  
107 or electronically: statistical or market indices, market prices  
108 of any security or group of securities, interest rates, currency  
109 exchange rates, or similar economic or financial data;

110 (ii) A determination or action by any person or  
111 body, including the corporation or any other party to a plan or  
112 filed document; or

113 (iii) The terms of, or actions taken under, an  
114 agreement to which the corporation is a party, or any other  
115 agreement or document.

116 (3) As used in this subsection:

117 (i) "Filed document" means a document filed with  
118 the Secretary of State under any provision of this chapter except  
119 Chapter 15 or Section 16.21; and

120 (ii) "Plan" means a plan of domestication,  
121 nonprofit conversion, entity conversion, merger or share exchange.

122 (4) The following provisions of a plan or filed  
123 document may not be made dependent on facts outside the plan or  
124 filed document:

125 (i) The name and address of any person required in  
126 a filed document.

127 (ii) The registered office of any entity required  
128 in a filed document.

129 (iii) The registered agent of any entity required  
130 in a filed document.

131 (iv) The number of authorized shares and  
132 designation of each class or series of shares.

133 (v) The effective date of a filed document.

134 (vi) Any required statement in a filed document of  
135 the date on which the underlying transaction was approved or the  
136 manner in which that approval was given.

137 (5) If a provision of a filed document is made  
138 dependent on a fact ascertainable outside of the filed document,  
139 and that fact is not ascertainable by reference to a source  
140 described in subsection (k)(2)(i) or a document that is a matter  
141 of public record, or the affected shareholders have not received  
142 notice of the fact from the corporation, then the corporation  
143 shall file with the Secretary of State articles of amendment  
144 setting forth the fact promptly after the time when the fact  
145 referred to is first ascertainable or thereafter changes.  
146 Articles of amendment under this subsection (k)(5) are deemed to  
147 be authorized by the authorization of the original filed document  
148 or plan to which they relate and may be filed by the corporation  
149 without further action by the board of directors or the  
150 shareholders.

151 **SECTION 3.** Section 79-4-1.22, Mississippi Code of 1972, is  
152 amended as follows:

153 79-4-1.22. (a) The Secretary of State shall collect the  
154 following fees when the documents described in this subsection are  
155 delivered to him for filing:

156	Document	Fee
157	(1) Articles of incorporation	\$50.00
158	(2) Application for use of indistinguishable	
159	name	25.00

160	(3)	Application for reserved name	25.00
161	(4)	Notice of transfer of reserved name	25.00
162	(5)	Application for registered name	50.00
163	(6)	Application for renewal of registered name	50.00
164	(7)	Corporation's statement of change of	
165		registered agent or registered office	
166		or both	10.00
167	(8)	Agent's statement of change of registered	
168		office for each affected corporation	10.00
169		not to exceed a total of	1,000.00
170	(9)	Agent's statement of resignation	No fee
171	(10)	Amendment of articles of incorporation	50.00
172	(11)	Restatement of articles of incorporation	50.00
173		with amendment of articles	50.00
174	(12)	Articles of merger or share exchange	50.00
175	(13)	Articles of dissolution	25.00
176	(14)	Articles of revocation of dissolution	25.00
177	(15)	Certificate of administrative dissolution	No fee
178	(16)	Application for reinstatement following	
179		administrative dissolution	50.00
180	(17)	Certificate of reinstatement	No fee
181	(18)	Certificate of judicial dissolution	No fee
182	(19)	Application for certificate of authority	500.00
183	(20)	Application for amended certificate of	
184		authority	50.00
185	(21)	Application for certificate of withdrawal	25.00
186	(22)	Certificate of revocation of authority to	
187		transact business	No fee
188	(23)	Application for reinstatement following	
189		administrative revocation	100.00
190	(24)	Certificate of reinstatement	No fee
191	<u>(25)</u>	Articles of correction	50.00
192	<u>(26)</u>	Application for certificate of existence	

193 or authorization 25.00

194 (27) Any other document required or permitted  
195 to be filed by Section 79-4-1.01 et seq. 25.00

196 (b) The Secretary of State shall collect a fee of  
197 Twenty-five Dollars (\$25.00) each time process is served on him  
198 under Section 79-4-1.01 et seq. The party to a proceeding causing  
199 service of process is entitled to recover this fee as costs if he  
200 prevails in the proceeding.

201 (c) The Secretary of State shall collect the following fees  
202 for copying and certifying the copy of any filed document relating  
203 to a domestic or foreign corporation:

204 (1) One Dollar (\$1.00) a page for copying; and

205 (2) Ten Dollars (\$10.00) for the certificate.

206 (d) The Secretary of State may collect a filing fee greater  
207 than the fee set out herein, not to exceed the actual costs of  
208 processing such filing, if the form for such filing prescribed by  
209 the Secretary of State has not been used.

210 **SECTION 4.** This act shall take effect and be in force from  
211 and after July 1, 2005.