

By: Representative Yancey

To: Business and Commerce

HOUSE BILL NO. 1344

1 AN ACT TO REQUIRE DOMESTIC AND FOREIGN NONPROFIT CORPORATIONS
 2 TO FILE AN ANNUAL REPORT WITH THE SECRETARY OF STATE PROVIDING
 3 CERTAIN SPECIFIED INFORMATION, INCLUDING WHETHER THE CORPORATION
 4 HAS RECEIVED PUBLIC FUNDS FROM A STATE OR LOCAL GOVERNMENTAL
 5 AGENCY IN MISSISSIPPI; TO AMEND SECTIONS 79-11-107 THROUGH
 6 79-11-387, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
 7 PROVISIONS OF THIS ACT; TO BRING FORWARD SECTION 79-11-391, WHICH
 8 REQUIRES NONPROFIT CORPORATIONS TO FILE A STATUS REPORT UPON
 9 REQUEST OF THE SECRETARY OF STATE, FOR PURPOSES OF POSSIBLE
 10 AMENDMENT; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** (1) Each nonprofit corporation, as defined in
 13 Section 79-11-127(z), shall file an annual report with the
 14 Secretary of State Business Services Division before May 15 of
 15 each year on a form prescribed by the Secretary of State.

16 (2) Each domestic nonprofit corporation and each foreign
 17 nonprofit corporation authorized to transact business in this
 18 state shall deliver an annual report to the Secretary of State for
 19 filing, on such date as may be established by the Secretary of
 20 State, which provides the following information:



21 (a) The name of the nonprofit corporation and the state
22 or country or other foreign jurisdiction under whose law it is
23 organized;

24 (b) The name, email address and street or physical
25 address of its registered agent in this state;

26 (c) The address of its principal office;

27 (d) The name, titles and business address of its
28 principal officer;

29 (e) A brief description of the nature of its business;
30 and

31 (f) Whether it has received public funds, and if so,
32 from what state or local governmental agency. The term "public
33 funds" means funds received by the organization during its most
34 recently completed fiscal year which were received from the State
35 of Mississippi or any local governmental authority located within
36 the State of Mississippi.

37 (2) Information in the annual report must be current as of
38 the date the annual report is executed on behalf of the nonprofit
39 corporation.

40 (3) If an annual report does not contain the information
41 required by this section, the Secretary of State shall provide
42 written notice promptly to the reporting nonprofit corporation and
43 return the report for correction. If the report is corrected to
44 contain the information required by this section and delivered to



45 the Secretary of State within thirty (30) days after the effective
46 date of notice, the report is deemed to be timely filed.

47 (4) If the nonprofit corporation fails to file timely or
48 fails to disclose the information required under this section,
49 the corporation may be subject to the penalties of dissolution or
50 disallowance of nonprofit status, or both.

51 **SECTION 2.** Section 79-11-107, Mississippi Code of 1972, is
52 amended as follows:

53 79-11-107. (1) The Secretary of State may prescribe and
54 furnish, on request, forms for: (a) an application for a
55 certificate of existence; (b) a foreign corporation's application
56 for a certificate of authority to transact business in this state;
57 (c) a foreign corporation's application for a certificate of
58 withdrawal; and (d) the * * * annual report. If the Secretary of
59 State so requires, use of these forms is mandatory.

60 (2) The Secretary of State may prescribe and furnish on
61 request forms for other documents required or permitted to be
62 filed by Section 79-11-101 et seq., but their use is not
63 mandatory.

64 **SECTION 3.** Section 79-11-109, Mississippi Code of 1972, is
65 amended as follows:

66 79-11-109. (1) Except as otherwise provided in subsection
67 (4) of this section, the Secretary of State shall collect the
68 following fees when the documents described in this subsection are
69 delivered for filing:



70	Document	Fee
71	(a) Articles of incorporation	\$50.00
72	(b) [Reserved]	
73	(c) Application for reserved name	25.00
74	(d) Notice of transfer or cancellation	
75	of reserved name	25.00
76	(e) [Reserved]	
77	(f) [Reserved]	
78	(g) [Reserved]	
79	(h) [Reserved]	
80	(i) [Reserved]	
81	(j) Amendment of articles of incorporation	50.00
82	(k) Restatement of articles of incorporation	
83	with amendments	50.00
84	(l) Articles of merger	50.00
85	(m) Articles of dissolution	25.00
86	(n) Articles of revocation of dissolution	25.00
87	(o) Certificate of administrative	
88	dissolution	No Fee
89	(p) Application for reinstatement following	
90	administrative dissolution	50.00
91	(q) Certificate of reinstatement	No Fee
92	(r) Certificate of judicial dissolution	No Fee
93	(s) Application for certificate of authority	100.00
94	(t) Application for amended certificate of	
95	authority	50.00
96	(u) Application for certificate of withdrawal	25.00
97	(v) Certificate of revocation of authority	
98	to transact business	No Fee
99	(w) * * * <u>Annual</u> report	25.00
100	(x) Articles of correction	50.00
101	(y) Application for certificate of existence	
102	or authorization	25.00
103	(z) Any other document required or permitted	
104	to be filed by Section 79-11-101 et seq.	25.00



105 (2) Except as otherwise provided in subsection (4) of this
106 section, the Secretary of State shall collect a fee of Twenty-five
107 Dollars (\$25.00) upon being served with process under Section
108 79-11-101 et seq. The party to a proceeding causing service of
109 process is entitled to recover the fee paid the Secretary of State
110 as costs if the party prevails in the proceeding.

111 (3) Except as otherwise provided in subsection (4) of this
112 section, the Secretary of State shall collect the following fees
113 for copying and certifying the copy of any filed document relating
114 to a domestic or foreign corporation:

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

116 (b) Ten Dollars (\$10.00) for the certificate.

117 (4) The Secretary of State may collect a filing fee greater
118 than the fee set forth in subsections (1), (2) and (3) in an
119 amount not to exceed twice the fee set forth in subsections (1),
120 (2) and (3) of processing the filing, if the form prescribed by
121 the Secretary of State for such filing has not been used.

122 **SECTION 4.** Section 79-11-121, Mississippi Code of 1972, is
123 amended as follows:

124 79-11-121. (1) Any person may apply to the Secretary of
125 State to furnish a certificate of existence for a domestic or
126 foreign corporation.

127 (2) The certificate of existence sets forth:

128 (a) The domestic corporation's corporate name or the
129 foreign corporation's corporate name used in this state;



130 (b) That (i) the domestic corporation is duly
131 incorporated under the law of this state, the date of its
132 incorporation and the period of its duration if less than
133 perpetual; or (ii) that the foreign corporation is authorized to
134 transact business in this state;

135 (c) That all fees, taxes, and penalties owed to this
136 state have been paid, if (i) payment is reflected in the records
137 of the Secretary of State and (ii) nonpayment affects the good
138 standing of the domestic or foreign corporation;

139 (d) That its most recent * * * annual report required
140 by * * * Section 1 of House Bill No. _____, 2024 Regular Session,
141 has been delivered to the Secretary of State;

142 (e) That articles of dissolution have not been filed;
143 and

144 (f) Other facts of record in the Office of the
145 Secretary of State that may be requested by the application.

146 (3) Subject to any qualification stated in the certificate,
147 a certificate of existence issued by the Secretary of State may be
148 relied upon as conclusive evidence that the domestic or foreign
149 corporation is in existence or is authorized to conduct activities
150 in this state.

151 **SECTION 5.** Section 79-11-129, Mississippi Code of 1972, is
152 amended as follows:



153 79-11-129. (1) Notice under this chapter must be in the
154 form of a record unless oral notice is authorized by this chapter
155 or is reasonable under the circumstances.

156 (2) Notice may be communicated in person or by delivery. If
157 these forms of communication are impracticable, notice may be
158 communicated by a newspaper of general circulation in the area
159 where published; or by radio, television or other form of public
160 broadcast communication.

161 (3) Oral notice is effective when communicated if
162 communicated in a comprehensible manner.

163 (4) Written notice by a domestic or foreign corporation to a
164 member, if in a comprehensible form, is effective:

165 (a) Upon deposit in the United States mail, if the
166 postage or delivery charge is paid and the notice is correctly
167 addressed to the member's address shown in the corporation's
168 current record of members, or

169 (b) When given if the notice is delivered in any other
170 manner that the member has authorized.

171 (5) Except as provided in subsection (4) of this section,
172 written notice, if in a comprehensible form, is effective at the
173 earliest of the following:

174 (a) When received;

175 (b) Five (5) days after its deposit in the United
176 States mail, if mailed postpaid and correctly addressed;



177 (c) On the date shown on the return receipt, if sent by
178 registered or certified mail, return receipt requested, and the
179 receipt is signed by or on behalf of the addressee.

180 (6) Written notice is correctly addressed to a member of a
181 domestic or foreign corporation if addressed to the member's
182 address shown in the corporation's current list of members.

183 (7) A written notice or report delivered as part of a
184 newsletter, magazine or other publication regularly sent to
185 members shall constitute a written notice or report if addressed
186 or delivered to the member's address shown in the corporation's
187 current list of members, or in the case of members who are
188 residents of the same household and who have the same address in
189 the corporation's current list of members, if addressed or
190 delivered to one (1) of such members, at the address appearing on
191 the current list of members.

192 (8) Written notice is correctly addressed to a domestic or
193 foreign corporation (authorized to transact business in this
194 state), other than in its capacity as a member, if addressed to
195 its registered agent or to its secretary at its principal office
196 shown in its most recent * * * annual report or, in the case of a
197 foreign corporation that has not yet delivered * * * an annual
198 report, in its application for a certificate of authority.

199 (9) If Section 79-11-205 or any other provision of Section
200 79-11-101 et seq. prescribes notice requirements for particular
201 circumstances, those requirements govern. If articles or bylaws



202 prescribe notice requirements, not inconsistent with this section
203 or other provisions of Section 79-11-101 et seq., those
204 requirements govern.

205 (10) With respect to electronic communications:

206 (a) Unless otherwise provided in the articles of
207 incorporation or bylaws, or otherwise agreed between the sender
208 and the recipient, an electronic communication is received when:

209 (i) It enters an information processing system
210 that the recipient has designated or uses for the purpose of
211 receiving electronic records or information of the type sent and
212 from which the recipient is able to retrieve the electronic
213 record; and

214 (ii) It is in a form capable of being processed by
215 that system.

216 (b) An electronic communication is received under
217 subsection (10) (a) even if no individual is aware of its receipt.

218 (c) Receipt of an electronic acknowledgement from an
219 information processing system described in subsection (10) (a)
220 establishes that a record was received but, by itself, does not
221 establish that the content sent corresponds to the content
222 received.

223 (11) An authorization by a member of delivery of notices or
224 communications by e-mail or similar electronic means may be
225 revoked by the member by notice to the nonprofit corporation in
226 the form of a record. Such an authorization is deemed revoked if



227 (a) the corporation is unable to deliver two (2) consecutive
228 notices or other communications to the member in the manner
229 authorized; and (b) the inability becomes known to the secretary
230 or other person responsible for giving the notice or other
231 communication; but the failure to treat the inability as a
232 revocation does not invalidate any meeting or other action.

233 **SECTION 6.** Section 79-11-283, Mississippi Code of 1972, is
234 amended as follows:

235 79-11-283. (1) A corporation shall keep as permanent
236 records minutes of all meetings of its members and board of
237 directors, a record of all actions taken by the members or
238 directors without a meeting, and a record of all actions taken by
239 committees of the board of directors as authorized by Section
240 79-11-265.

241 (2) A corporation shall maintain appropriate accounting
242 records.

243 (3) A corporation or its agent shall maintain a record of
244 its members in a form that permits preparation of a list of the
245 names and addresses of all members, in alphabetical order by class
246 showing the number of votes each member is entitled to vote.

247 (4) A corporation shall maintain its records in written form
248 or in any other form of a record.

249 (5) A corporation shall keep a copy of the following records
250 at its principal office:



251 (a) Its articles or restated articles of incorporation
252 and all amendments to them currently in effect;

253 (b) Its bylaws or restated bylaws and all amendments to
254 them currently in effect;

255 (c) Resolutions adopted by its board of directors
256 relating to the characteristics, qualifications, rights,
257 limitations and obligations of members or any class or category of
258 members;

259 (d) The minutes of all meetings of members and records
260 of all actions approved by the members for the past three (3)
261 years;

262 (e) All written communications to members generally
263 within the past three (3) years;

264 (f) A list of the names and business or home addresses
265 of its current directors and officers; and

266 (g) Its most recent * * * annual report delivered to
267 the Secretary of State under * * * Section 1 of House Bill No.
268 , 2024 Regular Session.

269 **SECTION 7.** Section 79-11-347, Mississippi Code of 1972, is
270 amended as follows:

271 79-11-347. The Secretary of State may commence a proceeding
272 under Section 79-11-349 to administratively dissolve a corporation
273 if:



274 (a) The corporation does not pay within sixty (60) days
275 after they are due any taxes or penalties imposed by Section
276 79-11-101 et seq. or other law;

277 (b) The corporation does not deliver * * * the required
278 annual report to the Secretary of State within sixty (60) days
279 after it is due;

280 (c) The corporation is without a registered agent in
281 this state for sixty (60) days or more;

282 (d) The corporation does not notify the Secretary of
283 State within one hundred twenty (120) days that its registered
284 agent has been changed or that its registered agent has resigned;

285 (e) The corporation's period of duration, if any,
286 stated in its articles of incorporation expires;

287 (f) The corporation fails to report within the time
288 period specified in Section 79-11-405 the suspension or revocation
289 of its tax-exempt status under Section 501(c)(3) of the Internal
290 Revenue Code; or

291 (g) An incorporator, director, officer or agent of the
292 corporation signed a document he knew was false in any material
293 respect with intent that the document be delivered to the
294 Secretary of State for filing.

295 **SECTION 8.** Section 79-11-385, Mississippi Code of 1972, is
296 amended as follows:

297 79-11-385. (1) The Secretary of State may commence a
298 proceeding under Section 79-11-387 to revoke the certificate of



299 authority of a foreign corporation authorized to transact business
300 in this state if:

301 (a) The foreign corporation does not deliver the * * *
302 annual report to the Secretary of State within sixty (60) days
303 after it is due;

304 (b) The foreign corporation does not pay within sixty
305 (60) days after they are due any franchise taxes or penalties
306 imposed by Section 79-11-101 et seq. or other law;

307 (c) The foreign corporation is without a registered
308 agent in this state for sixty (60) days or more;

309 (d) The foreign corporation does not inform the
310 Secretary of State by an appropriate filing that its registered
311 agent has changed or that its registered agent has resigned within
312 ninety (90) days of the change or resignation;

313 (e) An incorporator, director, officer or agent of the
314 foreign corporation signed a document such person knew was false
315 in any material respect with intent that the document be delivered
316 to the Secretary of State for filing; or

317 (f) The Secretary of State receives a duly
318 authenticated certificate from the Secretary of State or other
319 official having custody of corporate records in the state or
320 country under whose law the foreign corporation is incorporated
321 stating that it has been dissolved or has disappeared as the
322 result of a merger.



323 (2) The Attorney General may commence a proceeding under
324 Section 79-11-387 to revoke the certificate of authority of a
325 foreign corporation authorized to transact business in this state
326 if the foreign corporation has continued to exceed or abuse the
327 authority conferred upon it by law.

328 **SECTION 9.** Section 79-11-387, Mississippi Code of 1972, is
329 amended as follows:

330 79-11-387. (1) The Secretary of State upon determining that
331 one or more grounds exist under Section 79-11-385 for revocation
332 of a certificate of authority shall serve the foreign corporation
333 with written notice of that determination under Section 79-11-381.

334 (2) The Attorney General upon determining that grounds exist
335 under Section 79-11-385(2) for revocation of a certificate of
336 authority shall request the Secretary of State to serve, and the
337 Secretary of State shall serve the foreign corporation with
338 written notice of that determination under Section 79-11-381.

339 (3) If the foreign corporation does not correct each ground
340 for revocation or demonstrate to the reasonable satisfaction of
341 the Secretary of State or Attorney General that each ground for
342 revocation determined by the Secretary of State or Attorney
343 General does not exist within sixty (60) days after service of the
344 notice is perfected under Section 79-11-381, the Secretary of
345 State may revoke the foreign corporation's certificate of
346 authority by signing a certificate of revocation that recites the
347 ground or grounds for revocation and its effective date. The



348 Secretary of State shall file the original of the certificate and
349 serve a copy on the foreign corporation under Section 79-11-381.

350 (4) The authority of a foreign corporation to transact
351 business in this state ceases on the date shown on the certificate
352 revoking its certificate of authority.

353 (5) The Secretary of State's revocation of a foreign
354 corporation's certificate of authority appoints the Secretary of
355 State, the foreign corporation's agent for service of process in
356 any proceeding based on a cause of action which arose during the
357 time the foreign corporation was authorized to transact business
358 in this state. Service of process on the Secretary of State under
359 this subsection is service on the foreign corporation. Upon
360 receipt of process, the Secretary of State shall mail a copy of
361 the process to the secretary of the foreign corporation at its
362 principal office shown in its most recent * * * annual report or
363 in any subsequent communications received from the corporation
364 stating the current mailing address of its principal office, or,
365 if none is on file, in its application for a certificate of
366 authority.

367 (6) Revocation of a foreign corporation's certificate of
368 authority does not terminate the authority of the registered agent
369 of the corporation.

370 **SECTION 10.** Section 79-11-391, Mississippi Code of 1972, is
371 brought forward as follows:



372 79-11-391. (1) Each domestic corporation, and each foreign
373 corporation authorized to transact business in this state, shall
374 upon request deliver to the Secretary of State a status report on
375 a form prescribed and furnished by the Secretary of State that
376 sets forth:

377 (a) The name of the corporation and the jurisdiction
378 under whose law it is incorporated;

379 (b) The information required by Section 79-35-5(a);

380 (c) The address of its principal office;

381 (d) The names and business or residence addresses of
382 its directors and principal officers;

383 (e) A brief description of the nature of its
384 activities; and

385 (f) Whether or not it has members.

386 (2) Upon receiving the request for a status report, a
387 domestic or foreign corporation shall have ninety (90) days to
388 deliver the report to the Secretary of State.

389 (3) The information in the status report must be current on
390 the date the status report is executed on behalf of the
391 corporation.

392 (4) The Secretary of State may request a status report from
393 time to time, but not more frequently than once every five (5)
394 years, beginning five (5) years from the date upon which a
395 domestic corporation was incorporated or a foreign corporation was
396 authorized to transact business.



397 (5) If a status report does not contain the information
398 required by this section, the Secretary of State shall promptly
399 notify the reporting domestic or foreign corporation in writing
400 and return the report to it for correction. If the report is
401 corrected to contain the information required by this section and
402 delivered to the Secretary of State within thirty (30) days after
403 the effective date of notice, it is deemed to be timely filed.

404 **SECTION 11.** Section 1 of this act shall be codified as a new
405 section in Chapter 11, Title 79, Mississippi Code of 1972.

406 **SECTION 12.** This act shall take effect and be in force from
407 and after July 1, 2024.

