

By: Representative Yancey

To: Business and Commerce

COMMITTEE SUBSTITUTE
FOR
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 GOVERNMENTAL ENTITY; TO AMEND
5 SECTIONS 79-11-107 THROUGH 79-11-387, MISSISSIPPI CODE OF 1972, IN
6 CONFORMITY TO THE PROVISIONS OF THIS ACT; TO BRING FORWARD SECTION
7 79-11-391, WHICH REQUIRES NONPROFIT CORPORATIONS TO FILE A STATUS
8 REPORT UPON REQUEST OF THE SECRETARY OF STATE, FOR PURPOSES OF
9 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

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

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



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

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

25 (c) The address of its principal office;

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

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

30 (f) Whether it has received public funds and a listing
31 of any governmental entity that distributed the public funds. The
32 term "public funds" means funds received by the organization
33 during its most recently completed fiscal year which were received
34 from the State of Mississippi or any local governmental authority
35 located within the State of Mississippi.

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

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



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

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

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

52 79-11-107. (1) The Secretary of State may prescribe and
53 furnish, on request, forms for: (a) an application for a
54 certificate of existence; (b) a foreign corporation's application
55 for a certificate of authority to transact business in this state;
56 (c) a foreign corporation's application for a certificate of
57 withdrawal; and (d) the * * * annual report. If the Secretary of
58 State so requires, use of these forms is mandatory.

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

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

65 79-11-109. (1) Except as otherwise provided in subsection
66 (4) of this section, the Secretary of State shall collect the
67 following fees when the documents described in this subsection are
68 delivered for filing:



69	Document	Fee
70	(a) Articles of incorporation	\$50.00
71	(b) [Reserved]	
72	(c) Application for reserved name	25.00
73	(d) Notice of transfer or cancellation	
74	of reserved name	25.00
75	(e) [Reserved]	
76	(f) [Reserved]	
77	(g) [Reserved]	
78	(h) [Reserved]	
79	(i) [Reserved]	
80	(j) Amendment of articles of incorporation	50.00
81	(k) Restatement of articles of incorporation	
82	with amendments	50.00
83	(l) Articles of merger	50.00
84	(m) Articles of dissolution	25.00
85	(n) Articles of revocation of dissolution	25.00
86	(o) Certificate of administrative	
87	dissolution	No Fee
88	(p) Application for reinstatement following	
89	administrative dissolution	50.00
90	(q) Certificate of reinstatement	No Fee
91	(r) Certificate of judicial dissolution	No Fee
92	(s) Application for certificate of authority	100.00
93	(t) Application for amended certificate of	



94	authority	50.00
95	(u) Application for certificate of withdrawal	25.00
96	(v) Certificate of revocation of authority	
97	to transact business	No Fee
98	(w) * * * <u>Annual</u> report	25.00
99	(x) Articles of correction	50.00
100	(y) Application for certificate of existence	
101	or authorization	25.00
102	(z) Any other document required or permitted	
103	to be filed by Section 79-11-101 et seq.	25.00

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

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

- 114 (a) One Dollar (\$1.00) a page for copying; and
- 115 (b) Ten Dollars (\$10.00) for the certificate.

116 (4) The Secretary of State may collect a filing fee greater
117 than the fee set forth in subsections (1), (2) and (3) in an
118 amount not to exceed twice the fee set forth in subsections (1),



119 (2) and (3) of processing the filing, if the form prescribed by
120 the Secretary of State for such filing has not been used.

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

123 79-11-121. (1) Any person may apply to the Secretary of
124 State to furnish a certificate of existence for a domestic or
125 foreign corporation.

126 (2) The certificate of existence sets forth:

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

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

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

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

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



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

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

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

152 79-11-129. (1) Notice under this chapter must be in the
153 form of a record unless oral notice is authorized by this chapter
154 or is reasonable under the circumstances.

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

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

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

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



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

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

173 (a) When received;

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

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

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

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

191 (8) Written notice is correctly addressed to a domestic or
192 foreign corporation (authorized to transact business in this



193 state), other than in its capacity as a member, if addressed to
194 its registered agent or to its secretary at its principal office
195 shown in its most recent * * * annual report or, in the case of a
196 foreign corporation that has not yet delivered * * * an annual
197 report, in its application for a certificate of authority.

198 (9) If Section 79-11-205 or any other provision of Section
199 79-11-101 et seq. prescribes notice requirements for particular
200 circumstances, those requirements govern. If articles or bylaws
201 prescribe notice requirements, not inconsistent with this section
202 or other provisions of Section 79-11-101 et seq., those
203 requirements govern.

204 (10) With respect to electronic communications:

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

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

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

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



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

222 (11) An authorization by a member of delivery of notices or
223 communications by e-mail or similar electronic means may be
224 revoked by the member by notice to the nonprofit corporation in
225 the form of a record. Such an authorization is deemed revoked if
226 (a) the corporation is unable to deliver two (2) consecutive
227 notices or other communications to the member in the manner
228 authorized; and (b) the inability becomes known to the secretary
229 or other person responsible for giving the notice or other
230 communication; but the failure to treat the inability as a
231 revocation does not invalidate any meeting or other action.

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

234 79-11-283. (1) A corporation shall keep as permanent
235 records minutes of all meetings of its members and board of
236 directors, a record of all actions taken by the members or
237 directors without a meeting, and a record of all actions taken by
238 committees of the board of directors as authorized by Section
239 79-11-265.

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



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

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

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

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

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

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

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

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

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



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

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

270 79-11-347. The Secretary of State may commence a proceeding
271 under Section 79-11-349 to administratively dissolve a corporation
272 if:

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

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

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

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

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

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



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

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

296 79-11-385. (1) The Secretary of State may commence a
297 proceeding under Section 79-11-387 to revoke the certificate of
298 authority of a foreign corporation authorized to transact business
299 in this state if:

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

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

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

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

312 (e) An incorporator, director, officer or agent of the
313 foreign corporation signed a document such person knew was false



314 in any material respect with intent that the document be delivered
315 to the Secretary of State for filing; or

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

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

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

329 79-11-387. (1) The Secretary of State upon determining that
330 one or more grounds exist under Section 79-11-385 for revocation
331 of a certificate of authority shall serve the foreign corporation
332 with written notice of that determination under Section 79-11-381.

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



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

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

352 (5) The Secretary of State's revocation of a foreign
353 corporation's certificate of authority appoints the Secretary of
354 State, the foreign corporation's agent for service of process in
355 any proceeding based on a cause of action which arose during the
356 time the foreign corporation was authorized to transact business
357 in this state. Service of process on the Secretary of State under
358 this subsection is service on the foreign corporation. Upon
359 receipt of process, the Secretary of State shall mail a copy of
360 the process to the secretary of the foreign corporation at its
361 principal office shown in its most recent * * * annual report or
362 in any subsequent communications received from the corporation



363 stating the current mailing address of its principal office, or,
364 if none is on file, in its application for a certificate of
365 authority.

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

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

371 79-11-391. (1) Each domestic corporation, and each foreign
372 corporation authorized to transact business in this state, shall
373 upon request deliver to the Secretary of State a status report on
374 a form prescribed and furnished by the Secretary of State that
375 sets forth:

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

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

379 (c) The address of its principal office;

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

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

384 (f) Whether or not it has members.

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



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

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

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

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

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

