

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 316

An Act to amend and reenact §§ 13.1-1065, 13.1-1255, 50-73.70 and 50-73.83 of the Code of Virginia, relating to State Corporation Commission refunds.

[H 1187]

Approved March 31, 2004

Be it enacted by the General Assembly of Virginia:

1. That §§ 13.1-1065, 13.1-1255, 50-73.70 and 50-73.83 of the Code of Virginia are amended and reenacted as follows:

§ 13.1-1065. Payment of fees, fines, penalties, and interest prerequisite to Commission action; refunds.

A. The Commission shall not file or issue with respect to any domestic or any foreign limited liability company any certificate referred to in this chapter until all fees, fines, penalties, and interest assessed, imposed, charged or to be collected by the Commission pursuant to this chapter or Title 12.1 have been paid by or on behalf of such limited liability company.

B. *The Commission shall have authority to certify to the Comptroller directing refund of any overpayment of a fee, or of any fee collected for a document that is not accepted for filing, at any time within one year from the date of its payment.*

§ 13.1-1255. Payment of fees, fines, penalties, and interest prerequisite to Commission action; refunds.

A. The Commission shall not file or issue with respect to any domestic or any foreign business trust any certificate referred to in this chapter until all fees, fines, penalties, and interest assessed, imposed, charged or to be collected by the Commission pursuant to this chapter or Title 12.1 have been paid by or on behalf of such business trust.

B. *The Commission shall have the authority to certify to the Comptroller directing refund of any overpayment of a fee, or of any fee collected for a document that is not accepted for filing, at any time within one year from the date of its payment.*

§ 50-73.70. Payment of fees, fines, penalties, and interest prerequisite to Commission action; refunds.

A. The Commission shall not file or issue with respect to any domestic or any foreign limited partnership any certificate referred to in this chapter until all fees, fines, penalties, and interest assessed, imposed, charged or to be collected by the Commission pursuant to this chapter or Title 12.1 have been paid by or on behalf of such limited partnership.

B. *The Commission shall have authority to certify to the Comptroller directing refund of any overpayment of a fee, or of any fee collected for a document that is not accepted for filing, at any time within one year from the date of its payment.*

§ 50-73.83. Execution, filing, and recording of statements; refunds.

A. A statement may be filed with the Commission. A duly authenticated copy of a statement that is filed in an office in another state may be filed with the Commission. Either filing has the effect provided in this chapter with respect to partnership property located in or transactions that occur in ~~this~~ the Commonwealth.

B. A duly authenticated copy of a statement that has been filed with the Commission and recorded in the office for recording transfers of real property has the effect provided for recorded statements in this chapter. A recorded statement that is not a duly authenticated copy of a statement filed with the Commission does not have the effect provided for recorded statements in this chapter.

C. A statement filed by a partnership shall be executed by at least two partners. Other statements shall be executed by a partner or other person authorized by this chapter. The person executing a statement shall sign it and state beneath or opposite his signature his name and the capacity in which he executes the document. An individual who executes a statement as, or on behalf of, a partner or other person named as a partner in a statement shall personally declare under penalty of perjury that the contents of the statement are accurate. Any person may execute a statement by an attorney-in-fact.

D. A person authorized by this chapter to file a statement may:

1. Amend or cancel the statement by filing an amendment or cancellation that names the partnership, states the identification number issued by the Commission to the partnership, identifies the statement, and states the substance of the amendment or cancellation; and

2. Renew a statement of partnership authority by filing during the 90-day period preceding the date of the statement's cancellation by operation of law, a renewal of a statement of partnership authority that names the partnership, states the identification number issued by the Commission to the partnership, states the partnership's desire to renew the statement of partnership authority, and states that all of the information set forth in the statement of partnership authority is true and correct as of the execution date

of the renewal.

E. A person who files a statement pursuant to this section shall promptly send a copy of the statement to every nonfiling partner and to any other person named as a partner in the statement. Failure to send a copy of a statement to a partner or other person does not limit the effectiveness of the statement as to a person not a partner.

F. The Commission shall charge and collect the following fees:

1. The fee shall be \$100 for any one of the following:
 - a. For filing a statement of registration as a registered limited liability partnership;
 - b. For filing a statement of registration as a foreign registered limited liability partnership; or
 - c. For restoration of status pursuant to subdivision E 1 of § 50-73.134.
2. The fee shall be \$50 for filing any one of the following:
 - a. An amendment to a statement of registration as a registered limited liability partnership;
 - b. An amendment to a statement of registration as a foreign registered limited liability partnership; or
 - c. An annual continuation report pursuant to § 50-73.134.
3. For filing any other statement or amendment thereto, cancellation thereof or renewal of a statement of partnership authority, the fee shall be \$25. The fees paid into the state treasury under this section shall be set aside and paid into the special fund created under § 13.1-775.1, subject to that section. The court responsible for recording transfers of real property may collect a fee for recording a statement.

4. *The Commission shall have the authority to certify to the Comptroller directing refund of any overpayment of a fee, or of any fee collected for a document that is not accepted for filing, at any time within one year from the date of its payment.*

G. The Commission may provide forms for statements and reports.

H. Any statement filed with the Commission under this chapter shall be typewritten or printed. The typewritten or printed portion shall be in black. Photocopies, or other reproduced copies, of typewritten or printed statements may be filed. In every case, information in the statement shall be legible and the document shall be capable of being reformatted and reproduced in copies of archival quality. The statement shall be in the English language. A partnership name need not be in English if written in English letters or Arabic or Roman numerals. Any signature on a statement may be a facsimile.

I. The Commission may accept the electronic filing of any information required or permitted to be filed under this chapter and may prescribe the methods of execution, recording, reproduction and certification of electronically filed information pursuant to § 59.1-496.

J. A statement shall be effective at the time of the filing of the statement with the Commission as set forth in this section unless the statement states that it shall become effective at a later time and date specified in the statement. In that event, the statement shall become effective at the earlier of the time and date so specified or 11:59 p.m. on the fifteenth day after the date on which the statement is filed with the Commission.