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HOUSE BILL NO. 2603

Offered January 10, 2007

Prefiled January 10, 2007

A *BILL to amend and reenact §§ 13.1-615, 13.1-615.1, 13.1-616, 13.1-815, 13.1-815.1, 13.1-1005, 13.1-1065, 13.1-1252, 13.1-1255, 50-73.67, and 50-73.70 of the Code of Virginia, relating to annual registration, charter and filing fees.*

 Patron—Plum

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 13.1-615, 13.1-615.1, 13.1-616, 13.1-815, 13.1-815.1, 13.1-1005, 13.1-1065, 13.1-1252, 13.1-1255, 50-73.67, and 50-73.70 of the Code of Virginia are amended and reenacted as follows:

§ 13.1-615. Fees to be collected by Commission; payment of fees prerequisite to Commission action; exceptions.

A. The Commission shall assess the registration fees and shall charge and collect the filing fees, charter fees, and entrance fees imposed by law. 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.

B. The Commission shall not file or issue with respect to any domestic or foreign corporation any document or certificate specified in this chapter, except the report required by § 13.1-775, a statement of change pursuant to § 13.1-635 or 13.1-764, and a statement of resignation pursuant to § 13.1-636 or 13.1-765, 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 corporation. Notwithstanding the foregoing, the Commission may file or issue any document or certificate with respect to a domestic or foreign corporation that has been assessed an annual registration fee if the document or certificate is filed or issued with an effective date that is ~~prior to~~ *on or before* the due date of the corporation's annual registration fee payment in any year, *provided that the Commission shall not issue a certificate of domestication with respect to a foreign corporation until the annual registration fee has been paid by or on behalf of that corporation. Except as provided hereinafter, the issuance of a certificate of termination of corporate existence pursuant to § 13.1-751 shall not have the effect of releasing any obligation that has accrued in favor of the Commonwealth on account of such assessment.*

C. Any domestic corporation that has ceased to exist in the Commonwealth because of the issuance of a certificate of termination of corporate existence, certificate of incorporation surrender or certificate of entity conversion or any foreign corporation that has obtained a certificate of withdrawal, effective prior to its annual report due date pursuant to subsection C of § 13.1-775 in any year, shall not be required to pay the registration fee for that year. Any domestic or foreign corporation that has merged, effective prior to its annual report due date pursuant to subsection C of § 13.1-775 in any year, into a surviving domestic corporation or into a surviving foreign corporation that files with the Commission the certificate of merger prior to such date, shall not be required to pay the registration fee for that year. The Commission shall ~~enter an order withdrawing and canceling~~ *cancel* the registration fee assessments specified in this ~~section~~ *subsection* that remain unpaid.

D. Any foreign corporation that has amended its articles of incorporation to reduce the number of shares it is authorized to issue, effective prior to its annual assessment date pursuant to subsection B of § 13.1-775.1 of a given year, and has timely filed an authenticated copy of the amendment with the Commission pursuant to § 13.1-760 after its annual assessment date pursuant to subsection B of § 13.1-775.1, shall have its registration fee reassessed to reflect the new number of authorized shares.

E. Registration fee assessments that have been paid shall not be refunded.

§ 13.1-615.1. Charter and entrance fees for corporations.

A. Every domestic corporation, upon the granting of its charter or upon domestication, shall pay a *charter* fee into the state treasury, and every foreign corporation, when it obtains from the State Corporation Commission a certificate of authority to ~~do~~ *transact* business in ~~this~~ *the* Commonwealth, shall pay an entrance fee into the state treasury. The fee in each case is to be ascertained and fixed as follows:

For any domestic or foreign corporation whose number of authorized shares is 1,000,000 or fewer shares - \$50 for each 25,000 shares or fraction thereof;

For any domestic or foreign corporation whose number of authorized shares is more than 1,000,000

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59 shares - \$2,500.

60 B. For any foreign corporation that files articles of domestication and that had authority to transact
61 business in ~~this~~ *the* Commonwealth at the time of such filing, the charter fee to be charged upon
62 domestication shall be an amount equal to the difference between the amount that would be required by
63 this section and the amount already paid as an entrance fee by such corporation. Whenever by articles of
64 amendment or articles of merger, the number of authorized shares of any domestic or foreign
65 corporation or of the surviving corporation is increased, the charter or entrance fee to be charged shall
66 be an amount equal to the difference between the amount already paid as a charter or entrance fee by
67 such corporation and the amount that would be required by this chapter to be paid if the increased
68 number of authorized shares were being stated at that time in the original articles of incorporation. If no
69 charter or entrance fee has been heretofore paid to ~~this~~ *the* Commonwealth, the amount to be paid shall
70 be the same as would have to be paid on original incorporation or application for authority to transact
71 business.

72 § 13.1-616. Fees for filing documents or issuing certificates.

73 The Commission shall charge and collect the following fees, except as provided in § 12.1-21.2:

74 A 1. For filing any one of the following, the fee shall be \$25:

75 1 a. Articles of incorporation, domestication, ~~entity conversion~~ or incorporation surrender.

76 2 b. *Articles of entity conversion to convert a domestic limited liability company to a corporation.*

77 c. Articles of amendment or restatement.

78 3 d. Articles of merger or share exchange.

79 4 e. Articles of correction.

80 5 f. An application of a foreign corporation for a certificate of authority to transact business in the
81 Commonwealth.

82 6 g. An application of a foreign corporation for an amended certificate of authority to transact
83 business in the Commonwealth.

84 7 h. A copy of an amendment to the articles of incorporation of a foreign corporation holding a
85 certificate of authority to transact business in the Commonwealth.

86 8 i. A copy of articles of merger of a foreign corporation holding a certificate of authority to transact
87 business in the Commonwealth.

88 9 j. A copy of an instrument of entity conversion of a foreign corporation holding a certificate of
89 authority to transact business in the Commonwealth.

90 B 2. For filing any one of the following, the fee shall be \$10:

91 1 a. An application to reserve or to renew the reservation of a corporate name.

92 2 b. A notice of transfer of a reserved corporate name.

93 3 c. An application for use of an indistinguishable name.

94 4 d. Articles of dissolution.

95 5 e. Articles of revocation of dissolution.

96 6 f. Articles of termination of corporate existence.

97 7 g. A statement of withdrawal of a foreign corporation.

98 C 3. For issuing a certificate of change of name the fee shall be \$5.

99 § 13.1-815. Fees to be collected by Commission; payment of fees prerequisite to Commission action;
100 exceptions.

101 A. The Commission shall assess the registration fees and shall charge and collect filing fees, the
102 charter fees and entrance fees imposed by law. The Commission shall have authority to certify to the
103 Comptroller directing refund of any overpayment of a fee, or of any fee collected for a document which
104 is not accepted for filing, at any time within one year from the date of its payment.

105 B. The Commission shall not file or issue with respect to any domestic or foreign corporation any
106 document or certificate specified in this chapter, except the report required by § 13.1-936, a statement of
107 change pursuant to § 13.1-834 or 13.1-926, and a statement of resignation pursuant to § 13.1-835 or
108 13.1-927, until all fees, charges, fines, penalties, and interest assessed, imposed, charged, or to be
109 collected by the Commission pursuant to this chapter or Title 12.1 have been paid by or on behalf of
110 such corporation. Notwithstanding the foregoing, the Commission may file or issue any document or
111 certificate with respect to a domestic or foreign corporation that has been assessed an annual registration
112 fee if the document or certificate is filed or issued with an effective date that is ~~prior to~~ *on or before* the
113 due date of the corporation's annual registration payment in any year, *provided that the Commission*
114 *shall not issue a certificate of domestication with respect to a foreign corporation until the annual*
115 *registration fee has been paid by or on behalf of that corporation. Except as hereinafter provided, the*
116 *issuance of a certificate of termination of corporate existence pursuant to § 13.1-913 shall not have the*
117 *effect of releasing any obligation that has accrued in favor of this Commonwealth on account of such*
118 *assessment.*

119 C. Any domestic corporation that has ceased to exist because of the issuance of a certificate of
120 termination of corporate existence or certificate of incorporation surrender or any foreign corporation

that has obtained a certificate of withdrawal, effective prior to its annual report due date pursuant to subsection C of § 13.1-936 in any year, shall not be required to pay the registration fee for that year. Any domestic or foreign corporation that has merged, effective prior to its annual report due date pursuant to subsection C of § 13.1-936 in any year, into a surviving domestic corporation or into a surviving foreign corporation that files with the Commission the certificate of merger prior to such date, shall not be required to pay the registration fee for that year. The Commission shall ~~enter an order withdrawing and canceling~~ *cancel* the registration fee assessments ~~above~~ specified ~~remaining in this section that remain~~ unpaid.

D. Registration fee assessments that have been paid shall not be refunded.

§ 13.1-815.1. Charter and entrance fees for corporations.

A. Every domestic corporation, upon the granting of its charter *or upon domestication*, shall pay a ~~\$50 charter fee in the amount of \$50~~ into the state treasury, and every foreign corporation ~~without capital stock~~ shall pay *an entrance fee of \$50* into the state treasury for its certificate of authority to ~~conduct its affairs~~ *transact business* in ~~this the~~ Commonwealth.

B. For any foreign corporation that files articles of domestication and that had authority to transact business in ~~this the~~ Commonwealth at the time of such filing, the charter fee to be charged upon domestication shall be an amount equal to the difference between the amount that would be required by this section and the amount already paid as an entrance fee by such corporation. ~~If no charter or entrance fee has been heretofore paid to this Commonwealth, the amount to be paid shall be the same as would have to be paid on original incorporation or application for authority to transact business.~~

§ 13.1-1005. Fees.

The Commission shall charge and collect the following fees:

1. For filing any one of the following, the fee shall be \$100:

- a. Articles of organization.
- b. An application for registration as a foreign limited liability company.
- c. Articles of reinstatement.
- d. Articles of entity conversion *to convert a domestic corporation to a limited liability company*.
- e. Articles of domestication.

2. For filing any one of the following, the fee shall be \$25:

- a. Articles of amendment.
- b. Articles of cancellation with respect to a domestic limited liability company or a certificate of cancellation with respect to a foreign limited liability company.
- c. Articles of correction referred to in § 13.1-1011.1 or a certificate of correction referred to in § 13.1-1055.

d. A copy of an instrument of merger of a foreign limited liability company referred to in § 13.1-1060.

e. Articles of merger.

f. A copy of an instrument of entity conversion of a foreign limited liability company holding a certificate of registration to transact business in the Commonwealth.

g. Articles of restatement.

h. Articles of organization surrender.

3. For filing any one of the following, the fee shall be \$10:

a. An application to reserve or to renew the reservation of a name for use by a domestic or foreign limited liability company.

b. A notice of the transfer of a name reserved for use by a domestic or a foreign limited liability company.

4. For issuing a certificate pursuant to § 13.1-1067, \$6 for each certificate.

§ 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 foreign limited liability company any document or certificate specified in this chapter, except a statement of change pursuant to § 13.1-1016 and a statement of resignation pursuant to § 13.1-1017, 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. Notwithstanding the foregoing, the Commission may file or issue any document or certificate with respect to a domestic or foreign limited liability company that has been assessed an annual registration fee if the document or certificate is filed or issued with an effective date that is ~~prior to~~ *on or before* the due date of the limited liability company's annual registration fee payment in any year, *provided that the Commission shall not issue a certificate of domestication with respect to a foreign limited liability company until the annual registration fee has been paid by or on behalf of that limited liability company.*

B. The Commission shall have authority to certify to the Comptroller directing refund of any

182 overpayment of a fee, or of any fee collected for a document that is not accepted for filing, at any time
183 within one year from the date of its payment.

184 § 13.1-1252. Annual registration fees to be paid by domestic and foreign business trusts.

185 A. Every domestic business trust, and every foreign business trust registered to transact business in
186 ~~this the~~ Commonwealth, shall pay into the state treasury on or before ~~September~~ October 1 in each year
187 after the calendar year in which it was formed or registered to transact business in ~~this the~~
188 Commonwealth an annual registration fee of ~~fifty dollars~~ \$50.

189 B. The fees paid into the state treasury under this section and the fees collected under § 13.1-1204
190 shall be set aside and paid into the special fund created under § 13.1-775.1, and shall be used only by
191 the Commission as it deems necessary to defray the costs of the Commission and of the office of the
192 clerk of the Commission in supervising, implementing, administering and enforcing the provisions of
193 this chapter. The projected excess of fees collected over the costs of administration and enforcement so
194 incurred shall be paid into the general fund prior to the close of each fiscal year, based on the
195 unexpended balance of the special fund at the end of the prior fiscal year. An adjustment of this transfer
196 amount to reflect actual fees collected shall occur during the first quarter of the succeeding fiscal year.

197 § 13.1-1255. Payment of fees, fines, penalties, and interest prerequisite to Commission action;
198 refunds.

199 A. The Commission shall not file or issue with respect to any domestic or foreign business trust any
200 document or certificate specified in this chapter, except a statement of change pursuant to § 13.1-1221
201 and a statement of resignation pursuant to § 13.1-1222, until all fees, fines, penalties, and interest
202 assessed, imposed, charged, or to be collected by the Commission pursuant to this chapter or Title 12.1
203 have been paid by or on behalf of such business trust. Notwithstanding the foregoing, the Commission
204 may file or issue any document or certificate with respect to a domestic or foreign business trust that
205 has been assessed an annual registration fee if the document or certificate is filed or issued with an
206 effective date that is ~~prior to~~ on or before the due date of the business trust's annual registration fee
207 payment in any year, *provided that the Commission shall not issue a certificate of domestication with*
208 *respect to a foreign business trust until the annual registration fee has been paid by or on behalf of that*
209 *business trust.*

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

213 § 50-73.67. Annual registration fees to be paid by domestic and foreign limited partnerships.

214 Every domestic limited partnership, and every foreign limited partnership registered to transact
215 business in ~~this the~~ Commonwealth, shall pay into the state treasury on or before ~~September~~ October 1
216 in each year after the calendar year in which it was formed or registered to transact business in ~~this the~~
217 Commonwealth an annual registration fee of ~~fifty dollars~~ \$50.

218 The fees paid into the state treasury under this section and the fees collected under subsection C of
219 § 50-73.17 shall be set aside and paid into the special fund created under § 13.1-775.1, and shall be used
220 only by the Commission as it deems necessary to defray the costs of the Commission and of the office
221 of the ~~Clerk~~ clerk of the Commission in supervising, implementing, administering and enforcing the
222 provisions of this chapter. The projected excess of fees collected over the costs of administration and
223 enforcement so incurred shall be paid into the general fund prior to the close of each fiscal year, based
224 on the unexpended balance of the special fund at the end of the prior fiscal year. An adjustment of this
225 transfer amount to reflect actual fees collected shall occur during the first quarter of the succeeding
226 fiscal year.

227 § 50-73.70. Payment of fees, fines, penalties, and interest prerequisite to Commission action; refunds.

228 A. The Commission shall not file or issue with respect to any domestic or foreign limited partnership
229 any document or certificate specified in this chapter, except a statement of change pursuant to § 50-73.5
230 and a statement of resignation pursuant to § 50-73.6, until all fees, fines, penalties, and interest assessed,
231 imposed, charged, or to be collected by the Commission pursuant to this chapter or Title 12.1 have been
232 paid by or on behalf of such limited partnership. Notwithstanding the foregoing, the Commission may
233 file or issue any document or certificate with respect to a domestic or foreign limited partnership that
234 has been assessed an annual registration fee if the document or certificate is filed or issued with an
235 effective date that is ~~prior to~~ on or before the due date of the limited partnership's annual registration fee
236 payment in any year.

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