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SENATE BILL NO. 866

AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the Senate Committee on Commerce and Labor
 on January 15, 2007)

(Patron Prior to Substitute—Senator Watkins)

A BILL to amend and reenact §§ 13.1-616, 13.1-816, 13.1-1067, 13.1-1204, 50-73.17, and 50-73.83 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 9 of Title 13.1 an article numbered 21, consisting of a section numbered 13.1-781, by adding in Chapter 10 of Title 13.1 an article numbered 18, consisting of a section numbered 13.1-945, by adding in Article 14 of Chapter 14 of Title 13.1 a section numbered 13.1-1285, by adding a section numbered 50-73.76:1, and by adding in Article 10 of Chapter 2.2 of Title 50 a section numbered 50-73.150; and to repeal §§ 13.1-633, 13.1-832 and 50-73.130 of the Code of Virginia, relating to documents filed by business entities to maintain property title records.

Be it enacted by the General Assembly of Virginia:

1. That §§ 13.1-616, 13.1-816, 13.1-1067, 13.1-1204, 50-73.17, and 50-73.83 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Chapter 9 of Title 13.1 an article numbered 21, consisting of a section numbered 13.1-781, by adding in Chapter 10 of Title 13.1 an article numbered 18, consisting of a section numbered 13.1-945, by adding in Article 14 of Chapter 14 of Title 13.1 a section numbered 13.1-1285, by adding a section numbered 50-73.76:1 and by adding in Article 10 of Chapter 2.2 of Title 50 a section numbered 50-73.150 as follows:

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

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

A1. For filing any one of the following, the fee shall be \$25:

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

2b. Articles of amendment or restatement.

3c. Articles of merger or share exchange.

4d. Articles of correction.

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

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

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

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

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

B2. For filing any one of the following, the fee shall be \$10:

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

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

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

4d. Articles of dissolution.

5e. Articles of revocation of dissolution.

6f. Articles of termination of corporate existence.

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

€3. For issuing a certificate of change of name pursuant to § 13.1-781, the fee shall be \$5\$6.

Article 21.

Miscellaneous Provisions.

§ 13.1-781. Property title records.

A. Whenever the records in the office of the clerk of the Commission reflect that a domestic or foreign corporation has changed or corrected its name, merged into a domestic or foreign corporation or eligible entity, converted into a domestic or foreign eligible entity, or domesticated in or from another jurisdiction, the clerk of the Commission, upon request, shall issue a certificate reciting such change, correction, merger, conversion or domestication. The certificate may be admitted to record in the deed books, in accordance with § 17.1-227, of any clerk's office within the jurisdiction of which any property of the corporation is located in order to maintain the continuity of title records. The person filing the certificate shall pay a fee of \$10 to the clerk of the court, but no tax shall be due thereon.

B. Whenever a foreign corporation has changed or corrected its name, merged into another business

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entity, converted into another type of business entity, or domesticated in another jurisdiction, and it cannot or chooses not to obtain a certificate reciting such change, correction, merger, conversion or domestication from the clerk of the Commission pursuant to subsection A, a similar certificate by any competent authority of the foreign corporation's jurisdiction of incorporation may be admitted to record in the deed books, in accordance with § 17.1-227, of any clerk's office within the jurisdiction of which any property of the corporation is located in order to maintain the continuity of title records. The person filing the certificate shall pay a fee of \$10 to the clerk of the court, but no tax shall be due thereon.

§ 13.1-816. Fees for filing documents or issuing certificates.

The Commission shall charge and collect the following fees:

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

a. Articles of incorporation, domestication, or incorporation surrender.

b. Articles of amendment or restatement.

c. Articles of merger.

d. Articles of correction.

e. An application of a foreign corporation for a certificate of authority to transact business in the Commonwealth.

f. An application of a foreign corporation for an amended certificate of authority to transact business in the Commonwealth.

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

h. A copy of articles of merger or consolidation of a foreign corporation holding a certificate of authority to transact business in the Commonwealth.

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

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

a. An application to reserve a corporate name.

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

c. An application for use of an indistinguishable name.

d. Articles of dissolution.

e. Articles of revocation of dissolution.

f. Articles of termination of corporate existence.

g. A statement of withdrawal of a foreign corporation.

3. For issuing a certificate of change of name pursuant to § 13.1-945, the fee shall be \$5 \$6.

Article 18.

Miscellaneous Provisions.

§ 13.1-945. Property title records.

A. Whenever the records in the office of the clerk of the Commission reflect that a domestic or foreign corporation has changed or corrected its name, merged into a domestic or foreign limited liability company, corporation, business trust, limited partnership or partnership, converted into a domestic or foreign limited liability company, business trust, limited partnership or partnership, or domesticated in or from another jurisdiction, the clerk of the Commission, upon request, shall issue a certificate reciting such change, correction, merger, conversion or domestication. The certificate may be admitted to record in the deed books, in accordance with § 17.1-227, of any clerk's office within the jurisdiction of which any property of the corporation is located in order to maintain the continuity of title records. The person filing the certificate shall pay a fee of \$10 to the clerk of the court, but no tax shall be due thereon.

B. Whenever a foreign corporation has changed or corrected its name, merged into another business entity, converted into another type of business entity, or domesticated in another jurisdiction, and it cannot or chooses not to obtain a certificate reciting such change, correction, merger, conversion or domestication from the clerk of the Commission pursuant to subsection A, a similar certificate by any competent authority of the foreign corporation's jurisdiction of incorporation may be admitted to record in the deed books, in accordance with § 17.1-227, of any clerk's office within the jurisdiction of which any property of the corporation is located in order to maintain the continuity of title records. The person filing the certificate shall pay a fee of \$10 to the clerk of the court, but no tax shall be due thereon.

§ 13.1-1067. Property title records.

A. Whenever by (i) amendment to the articles of organization pursuant to § 13.1-1014, (ii) certificate of correction of the application for registration of a foreign limited liability company pursuant to § 13.1-1055, (iii) conversion of a general partnership or limited partnership to a limited liability company pursuant to § 13.1-1010.1, (iv) conversion of a corporation to a limited liability company where otherwise permitted by law, (v) domestication of a non-United States entity as a limited liability

company pursuant to § 13.1-1010.3, or (vi) domestication of a foreign limited liability company pursuant to Article 14 (§ 13.1-1074 et seq.) of Chapter 12 of this title, the name of any domestic or foreign limited liability company is changed or a general or limited partnership, corporation, foreign limited liability company, or non-United States entity is converted to or domesticated in limited liability company form, the clerk of the Commission, upon request, shall issue a certificate that recites the change of name, the records in the office of the clerk of the Commission reflect that a domestic or foreign limited liability company has changed or corrected its name, merged into a domestic or foreign limited liability company, corporation, business trust, limited partnership or partnership, converted into a domestic or foreign corporation, business trust, limited partnership or partnership, or domesticated in or from another jurisdiction, the clerk of the Commission, upon request, shall issue a certificate reciting such change, correction, merger, conversion, or domestication. The certificate may be admitted to record in the deed books, in accordance with § 17.1-227, of any court's office within the jurisdiction of which any property of the limited liability company is located in order to maintain the continuity of title records. The person filing the certificate shall pay a fee of \$10 to the clerk of the court, but no tax shall be due thereon.

B. Whenever by merger of a domestic or foreign limited liability company with one or more domestic or foreign limited liability companies, partnerships, limited partnerships, corporations, business trusts or other entities pursuant to Article 13 (§ 13.1-1070 et seq.) of Chapter 12 of this title or to the laws of a foreign jurisdiction, or by conversion of any entity to a foreign limited liability company pursuant to the laws of a foreign jurisdiction, a domestic or foreign limited liability company succeeds to the ownership of or any interest in real estate, and when such domestic or foreign limited liability company furnishes the Commission with a certificate of merger issued by the Commission or a similar certificate of merger or conversion issued by any competent authority of the jurisdiction under which any such foreign limited liability company is organized, the clerk of the Commission, upon request, shall issue a certificate that recites the succession to ownership of or interest in real estate. The certificate a foreign limited liability company has changed or corrected its name, merged into another business entity, converted into another type of business entity, or domesticated in another jurisdiction, and it cannot or chooses not to obtain a certificate reciting such change, correction, merger, conversion or domestication from the clerk of the Commission pursuant to subsection A, a similar certificate by any competent authority of the foreign limited liability company's jurisdiction of organization may be admitted to record in the deed books, in accordance with § 17.1-227, of any recording office within the jurisdiction of which any property of the limited liability company is located in order to maintain the continuity of title records. The person filing the certificate shall pay a fee of \$10 to the clerk of the court, but no tax shall be due thereon.

§ 13.1-1204. 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 trust.
- b. An application for registration as a foreign business trust.
- c. Articles of reinstatement.
- d. Articles of domestication.
- e. Articles of entity conversion.

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

- a. Articles of amendment.
- b. Articles of restatement.
- c. Articles of cancellation with respect to a domestic or foreign business trust.
- d. Articles of correction referred to in § 13.1-1213 or a certificate of correction referred to in

§ 13.1-1245.

e. A copy of an instrument of merger of a foreign business trust referred to in § 13.1-1250.

f. Articles of merger.

g. Articles of trust surrender.

h. A copy of an instrument of entity conversion of a foreign business trust holding a certificate of registration to transact business in the Commonwealth.

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 business trust.

b. A notice of the transfer of a name reserved for use by a domestic or foreign business trust.

4. For issuing a certificate pursuant to § 13.1-1285, the fee shall be \$6.

§ 13.1-1285. Property title records.

A. Whenever the records in the office of the clerk of the Commission reflect that a domestic or foreign business trust has changed or corrected its name, merged into a domestic or foreign

183 corporation, limited liability company, business trust, limited partnership or partnership, converted into
184 a domestic or foreign corporation, limited liability company, limited partnership or partnership, or
185 domesticated in or from another jurisdiction, the clerk of the Commission, upon request, shall issue a
186 certificate reciting such change, correction, merger, conversion or domestication. The certificate may be
187 admitted to record in the deed books, in accordance with § 17.1-227, of any clerk's office within the
188 jurisdiction of which any property of the business trust is located in order to maintain the continuity of
189 title records. The person filing the certificate shall pay a fee of \$10 to the clerk of the court, but no tax
190 shall be due thereon.

191 B. Whenever a foreign business trust has changed or corrected its name, merged into a corporation,
192 limited liability company, business trust, limited partnership or partnership, converted into another type
193 of business entity, or domesticated in another jurisdiction, and it cannot or chooses not to obtain a
194 certificate reciting such change, correction, merger, conversion or domestication from the clerk of the
195 Commission pursuant to subsection A, a similar certificate by any competent authority of the foreign
196 business trust's jurisdiction of formation may be admitted to record in the deed books, in accordance
197 with § 17.1-227, of any clerk's office within the jurisdiction of which any property of the business trust
198 is located in order to maintain the continuity of title records. The person filing the certificate shall pay
199 a fee of \$10 to the clerk of the court, but no tax shall be due thereon.

200 § 50-73.17. Filing; fees.

201 A. 1. One signed copy of the certificate of limited partnership, of any certificate of amendment or
202 cancellation, of any restated certificate of limited partnership or of any articles of merger shall be
203 delivered to the Commission for filing and shall be accompanied by the required filing fee. One signed
204 copy of any amended and restated certificate referred to in § 50-73.77 plus one photocopy for each
205 circuit court where the certificate of limited partnership was originally filed shall be delivered to the
206 Commission for filing and shall be accompanied by the required filing fee.

207 2. Any document delivered to the Commission for filing shall be typewritten or printed in black.
208 Photocopies, or other reproduced copies, of typewritten or printed certificates may be filed. In every
209 case, information in the document shall be legible and the document shall be capable of being
210 reformatted and reproduced in copies of archival quality.

211 3. The document shall be in the English language. A limited partnership name need not be in English
212 if written in English letters or Arabic or Roman numerals. The certificate of limited partnership or
213 partnership agreement, duly authenticated by the official having custody of the applicable records in the
214 state or other jurisdiction under whose law the limited partnership is formed, which is required of
215 foreign limited partnerships, need not be in English if accompanied by a reasonably authenticated
216 English translation.

217 4. If, pursuant to any provision of this chapter, the Commission has prescribed a mandatory form for
218 the document, the document shall be in or on the prescribed form.

219 5. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of his
220 authority as a prerequisite to filing. If the Commission finds that the certificate complies with the
221 provisions of this chapter, that it has been signed as required by this chapter, and that the required filing
222 fee has been paid, it shall endorse on the certificate the word "Filed" and the day, month and year of the
223 filing thereof and admit the certificate to record in its office. A signature on any document filed under
224 this chapter may be a facsimile.

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

228 B. Upon the filing with the Commission of a certificate of amendment, the certificate of limited
229 partnership shall be amended as set forth therein, and upon the effective date of a certificate of
230 cancellation the certificate of limited partnership is canceled.

231 C. The Commission shall charge and collect the following fees:

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

233 a. An application to reserve or to renew the reservation of a name for use by a domestic or a foreign
234 limited partnership;

235 b. A notice of the transfer of a name reserved for the use by a domestic or a foreign limited
236 partnership;

237 c. A certificate of cancellation with respect to either a domestic or a foreign limited partnership;

238 d. A certificate declaring withdrawal referred to in § 50-73.25;

239 e. A certificate of correction referred to in § 50-73.57.

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

241 a. A certificate of limited partnership referred to in § 50-73.11;

242 b. An application for registration as a foreign limited partnership;

243 c. An amended and restated certificate of limited partnership referred to in § 50-73.77.

244 3. For filing any one of the following, the fee shall be \$50:

- a. A certificate of amendment or a short form of such certificate;
- b. A restated certificate of limited partnership.
- 4. For filing any one of the following, the fee shall be \$25:
 - a. Articles of merger referred to in § 50-73.48:3;
 - b. An instrument of merger referred to in § 50-73.57:2;
 - c. An instrument of entity conversion referred to in § 50-73.57:3.
- 5. For issuing a certificate pursuant to § ~~50-73.130~~ 50-73.76:1, the fee shall be \$6.

§ 50-73.76:1. *Property title records.*

A. Whenever the records in the office of the clerk of the Commission reflect that a domestic or foreign limited partnership has changed or corrected its name, merged into a domestic or foreign corporation, limited liability company, business trust, limited partnership or partnership, converted into a domestic or foreign corporation, limited liability company, business trust or partnership, or domesticated in or from another jurisdiction, the clerk of the Commission, upon request, shall issue a certificate reciting such change, correction, merger, conversion or domestication. The certificate may be admitted to record in the deed books, in accordance with § 17.1-227, of any clerk's office within the jurisdiction of which any property of the limited partnership is located in order to maintain the continuity of title records. The person filing the certificate shall pay a fee of \$10 to the clerk of the court, but no tax shall be due thereon.

B. Whenever a foreign limited partnership has changed or corrected its name, merged into a corporation, limited liability company, business trust, limited partnership or partnership, converted into another type of business entity, or domesticated in another jurisdiction, and it cannot or chooses not to obtain a certificate reciting such change, correction, merger, conversion or domestication from the clerk of the Commission pursuant to subsection A, a similar certificate by any competent authority of the foreign limited partnership's jurisdiction of formation may be admitted to record in the deed books, in accordance with § 17.1-227, of any clerk's office within the jurisdiction of which any property of the limited partnership is located in order to maintain the continuity of title records. The person filing the certificate shall pay a fee of \$10 to the clerk of the court, but no tax shall be due thereon.

§ 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 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, except as provided in subdivision A 1 of § 50-73.78. 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.

4. *For issuing a certificate pursuant to § 50-73.150, the fee shall be \$6.*

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.

§ 50-73.150. Property title records.

A. *Whenever the records in the office of the clerk of the Commission reflect that a partnership has changed or corrected its name, merged into a domestic or foreign corporation, limited liability company, business trust, limited partnership or partnership, converted into a domestic or foreign corporation, limited liability company, business trust or limited partnership, or domesticated in or from another jurisdiction, the clerk of the Commission, upon request, shall issue a certificate reciting such change, correction, merger, conversion or domestication. The certificate may be admitted to record in the deed books, in accordance with § 17.1-227, of any clerk's office within the jurisdiction of which any property of the partnership is located in order to maintain the continuity of title records. The person filing the certificate shall pay a fee of \$10 to the clerk of the court, but no tax shall be due thereon.*

B. *Whenever a partnership formed under the laws of another jurisdiction has changed or corrected its name, merged into a corporation, limited liability company, business trust, limited partnership or partnership, converted into another type of business entity, or domesticated in another jurisdiction, and it cannot or chooses not to obtain a certificate reciting such change, correction, merger, conversion or domestication from the clerk of the Commission pursuant to subsection A, a similar certificate by any competent authority of the foreign partnership's jurisdiction of formation may be admitted to record in the deed books, in accordance with § 17.1-227, of any clerk's office within the jurisdiction of which any property of the partnership is located in order to maintain the continuity of title records. The person filing the certificate shall pay a fee of \$10 to the clerk of the court, but no tax shall be due thereon.*

2. That §§ 13.1-633, 13.1-832 and 50-73.130 of the Code of Virginia are repealed.