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HOUSE BILL NO. 926**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Rules
on February 5, 2008)

(Patrons Prior to Substitute—Delegates Byron and Cosgrove [HB 227])

A *BILL to amend and reenact §§ 13.1-753, 13.1-769, 13.1-915, 13.1-931, 13.1-1046, 13.1-1056, 13.1-1234, and 13.1-1246 of the Code of Virginia, relating to business entities; employment of illegal aliens.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 13.1-753, 13.1-769, 13.1-915, 13.1-931, 13.1-1046, 13.1-1056, 13.1-1234, and 13.1-1246 of the Code of Virginia are amended and reenacted as follows:

§ 13.1-753. Involuntary termination of corporate existence.

A. The corporate existence of a corporation may be terminated involuntarily by order of the Commission when it finds that the corporation (i) has continued to exceed or abuse the authority conferred upon it by law; (ii) has failed to maintain a registered office or a registered agent in this Commonwealth as required by law; or (iii) has failed to file any document required by this chapter to be filed with the Commission. Upon termination, the properties and affairs of the corporation shall pass automatically to its directors as trustees in liquidation. The trustees then shall proceed to collect the assets of the corporation; sell, convey and dispose of such of its properties as are not to be distributed in kind to its shareholders; pay, satisfy and discharge its liabilities and obligations; and do all other acts required to liquidate its business and affairs. After paying or adequately providing for the payment of all its obligations, the trustees shall distribute the remainder of its assets, either in cash or in kind, among its shareholders according to their respective rights and interests.

B. *The corporate existence of a corporation may be terminated involuntarily by order of the Commission upon a corporation's conviction for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its officers and directors constituting a pattern or practice of employing unauthorized aliens in the Commonwealth. The corporation whose existence is terminated pursuant to this subsection shall not be eligible for reinstatement pursuant to § 13.1-754 for a period of not less than one year.*

BC. Before entering any such order the Commission shall issue a rule against the corporation giving it an opportunity to be heard and show cause why such an order should not be entered. The Commission may issue the rule on its own motion or on motion of the Attorney General.

§ 13.1-769. Revocation of certificate of authority by Commission.

A. The certificate of authority to do business in the Commonwealth of any foreign corporation may be revoked by order of the Commission when it finds that the corporation:

1. Has continued to exceed the authority conferred upon it by law;

2. Has failed to maintain a registered office or a registered agent in the Commonwealth as required by law;

3. Has failed to file any document required by this chapter to be filed with the Commission; or

4. No longer exists under the laws of the state or country of its incorporation.

B. *The certificate of authority to do business in the Commonwealth of any foreign corporation may be revoked by order of the Commission upon a corporation's conviction for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its officers and directors constituting a pattern or practice of employing unauthorized aliens in the Commonwealth. A certificate terminated pursuant to this subsection shall not be eligible for reinstatement for a period of not less than one year.*

BC. Before entering any such order the Commission shall issue a rule against the corporation giving it an opportunity to be heard and show cause why such an order should not be entered. The Commission may issue the rule on its own motion or on motion of the Attorney General.

CD. The authority of a foreign corporation to transact business in the Commonwealth ceases on the date shown on the order revoking its certificate of authority.

DE. The Commission's revocation of a foreign corporation's certificate of authority appoints the clerk of the Commission the foreign corporation's agent for service of process in any proceeding based on a cause of action arising during the time the foreign corporation was authorized to transact business in the Commonwealth. Service of process on the clerk of the Commission under this subsection is service on the foreign corporation and shall be made on the clerk in accordance with § 12.1-19.1.

EF. Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the corporation.

§ 13.1-915. Involuntary termination of corporate existence.

A. The corporate existence of a corporation may be terminated involuntarily by order of the Commission when it finds that the corporation (i) has continued to exceed or abuse the authority

60 conferred upon it by law; (ii) has failed to maintain a registered office or a registered agent in the
61 Commonwealth as required by law; or (iii) has failed to file any document required by this Act to be
62 filed with the Commission. Upon termination, the properties and affairs of the corporation shall pass
63 automatically to its directors as trustees in liquidation. The trustees then shall proceed to collect the
64 assets of the corporation, and pay, satisfy and discharge its liabilities and obligations and do all other
65 acts required to liquidate its business and affairs. After paying or adequately providing for the payment
66 of all its obligations, the trustees shall distribute the remainder of its assets in accordance with
67 § 13.1-907.

68 *B. The corporate existence of a corporation may be terminated involuntarily by order of the*
69 *Commission upon a corporation's conviction for a violation of 8 U.S.C. § 1324a(f), as amended, for*
70 *actions of its officers and directors constituting a pattern or practice of employing unauthorized aliens*
71 *in the Commonwealth. The corporation whose existence is terminated pursuant to this subsection shall*
72 *not be eligible for reinstatement pursuant to § 13.1-916 for a period of not less than one year.*

73 *BC. Before entering any such order the Commission shall issue a rule against the corporation giving*
74 *it an opportunity to be heard and show cause why such an order should not be entered. The*
75 *Commission may issue the rule on its own motion or on motion of the Attorney General.*

76 § 13.1-931. Revocation of certificate of authority by Commission.

77 A. The certificate of authority to transact business in the Commonwealth of any foreign corporation
78 may be revoked by order of the Commission when it finds that the corporation:

- 79 1. Has continued to exceed the authority conferred upon it by law;
80 2. Has failed to maintain a registered office or a registered agent in the Commonwealth as required
81 by law;
82 3. Has failed to file any document required by this Act to be filed with the Commission; or
83 4. No longer exists under the laws of the state or country of its incorporation.

84 *B. The certificate of authority to do business in the Commonwealth of any foreign corporation may*
85 *be revoked by order of the Commission upon a foreign corporation's conviction for a violation of 8*
86 *U.S.C. § 1324a(f), as amended, for actions of its officers and directors constituting a pattern or practice*
87 *of employing unauthorized aliens in the Commonwealth. A certificate terminated pursuant to this*
88 *subsection shall not be eligible for reinstatement for a period of not less than one year.*

89 *BC. Before entering any such order the Commission shall issue a rule against the corporation giving*
90 *it an opportunity to be heard and show cause why such an order should not be entered. The*
91 *Commission may issue the rule on its own motion or on motion of the Attorney General.*

92 *CD. The authority of a foreign corporation to transact business in the Commonwealth ceases on the*
93 *date shown on the order revoking its certificate of authority.*

94 *DE. The Commission's revocation of a foreign corporation's certificate of authority appoints the clerk*
95 *of the Commission the foreign corporation's agent for service of process in any proceeding based on a*
96 *cause of action arising during the time the foreign corporation was authorized to transact business in the*
97 *Commonwealth. Service of process on the clerk of the Commission under this subsection is service on*
98 *the foreign corporation and shall be made on the clerk in accordance with § 12.1-19.1.*

99 *EF. Revocation of a foreign corporation's certificate of authority does not terminate the authority of*
100 *the registered agent of the corporation.*

101 § 13.1-1046. Dissolution; generally.

102 A. A limited liability company organized under this chapter is dissolved and its affairs shall be
103 wound up upon the happening of the first to occur of the following events:

- 104 1. At the time or on the happening of any events specified in writing in the articles of organization
105 or an operating agreement;
106 2. Upon the unanimous written consent of the members;
107 3. The entry of a decree of judicial dissolution under § 13.1-1047; or
108 4. Automatic cancellation of its certificate pursuant to § 13.1-1064.

109 *B. The certificate of a limited liability company may be terminated involuntarily by order of the*
110 *Commission upon the limited liability company's conviction for a violation of 8 U.S.C. § 1324a(f), as*
111 *amended, for actions of its members or managers constituting a pattern or practice of employing*
112 *unauthorized aliens in the Commonwealth. A certificate terminated pursuant to this subsection shall not*
113 *be eligible for reinstatement pursuant to § 13.1-1050.1 for a period of not less than one year.*

114 *C. Before entering any such order the Commission shall issue a rule against the limited liability*
115 *company giving it an opportunity to be heard and show cause why such an order shall not be entered.*
116 *The Commission may issue the rule on its own motion or on motion of the Attorney General.*

117 § 13.1-1056. Cancellation of certificate of registration.

118 A. A foreign limited liability company may cancel its certificate of registration by delivering to the
119 Commission a certificate of cancellation on forms prescribed and furnished by the Commission which
120 shall set forth:

- 121 1. The name of the foreign limited liability company and the name of the state or other jurisdiction

under whose jurisdiction it was formed;

2. That the foreign limited liability company is not transacting business in this Commonwealth and that it surrenders its registration to transact business in this Commonwealth;

3. That the foreign limited liability company revokes the authority of its registered agent to accept service on its behalf and appoints the clerk of the Commission as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this Commonwealth;

4. A mailing address to which the clerk may mail a copy of any process served on him under subdivision 3 of this subsection; and

5. A commitment to notify the clerk of the Commission in the future of any change in the mailing address on the limited liability company.

B. If the Commission finds that the certificate of cancellation conforms to the provisions of this article and all required fees have been paid, the Commission shall file the certificate and the certificate of registration shall be cancelled.

C. The certificate of registration to do business in the Commonwealth of any foreign limited liability company may be revoked by order of the Commission upon the foreign limited liability company's conviction for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its members or managers constituting a pattern or practice of employing unauthorized aliens in the Commonwealth. A certificate terminated pursuant to this subsection shall not be eligible for reinstatement for a period of not less than one year.

D. Before entering any such order the Commission shall issue a rule against the foreign limited liability company giving it an opportunity to be heard and show cause why such an order shall not be entered. The Commission may issue the rule on its own motion or on motion of the Attorney General.

§ 13.1-1234. Dissolution generally.

A. A business trust organized under this chapter is dissolved and its affairs shall be wound up upon the happening of the first to occur of the following events:

1. At the time or on the happening of any events specified in writing in the articles of trust or a governing instrument;

2. Upon the unanimous written consent of the beneficial owners;

3. The entry of a decree of judicial dissolution under § 13.1-1235; or

4. Automatic cancellation of its certificate pursuant to § 13.1-1254.

B. The certificate of a business trust may be terminated involuntarily by order of the Commission upon the business trust's conviction for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its trustees or beneficial owners authorized to act on the behalf of a business trust constituting a pattern or practice of employing unauthorized aliens in the Commonwealth. A certificate of a business trust terminated pursuant to this subsection shall not be eligible for reinstatement for a period of not less than one year.

C. Before entering any such order the Commission shall issue a rule against the business trust giving it an opportunity to be heard and show cause why such an order shall not be entered. The Commission may issue the rule on its own motion or on motion of the Attorney General.

§ 13.1-1246. Cancellation of certificate of registration.

A. A foreign business trust may cancel its certificate of registration by delivering to the Commission articles of cancellation on forms prescribed and furnished by the Commission that shall set forth:

1. The name of the foreign business trust and the name of the state or other jurisdiction under whose jurisdiction it was formed;

2. That the foreign business trust is not transacting business in this Commonwealth and that it surrenders its registration to transact business in this Commonwealth;

3. That the foreign business trust revokes the authority of its registered agent to accept service on its behalf and appoints the clerk of the Commission as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this Commonwealth;

4. A mailing address to which the clerk may mail a copy of any process served on him under subdivision 3 of this subsection; and

5. A commitment to notify the clerk of the Commission in the future of any change in the mailing address of the business trust.

B. If the Commission finds that the articles of cancellation conform to the provisions of this article and all required fees have been paid, it shall file the articles and the certificate of registration shall be canceled.

C. The certificate of registration to do business in the Commonwealth of any foreign business trust may be revoked by order of the Commission upon the foreign business trust's conviction for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its trustees or beneficial owners authorized to act on

183 *the behalf of a foreign business trust constituting a pattern or practice of employing unauthorized aliens*
184 *in the Commonwealth. A certificate of a foreign business trust terminated pursuant to this subsection*
185 *shall not be eligible for reinstatement for a period of not less than one year.*

186 *D. Before entering any such order the Commission shall issue a rule against the foreign business*
187 *trust giving it an opportunity to be heard and show cause why such an order shall not be entered. The*
188 *Commission may issue the rule on its own motion or on motion of the Attorney General.*

189 **2. That, in accordance with the provisions of this act, the State Corporation Commission shall**
190 **require a corporation, foreign corporation, limited liability company, foreign limited liability**
191 **company, business trust, or foreign business trust authorized to conduct business in the**
192 **Commonwealth to report as a part of its corporate annual report to the Commission, any**
193 **conviction of a violation of 8 U.S.C. 1324a(f), as amended, for actions of its officers or directors,**
194 **members or managers, or trustees or beneficial owners for employing unauthorized aliens in the**
195 **Commonwealth.**