Article 2.

Submission of Documents to the Secretary of State for Filing.

§ 55D-10. Filing requirements.

(a) To be entitled to filing by the Secretary of State under Chapter 55, 55A, 55B, 57D, or 59 of the General Statutes, a document must satisfy the requirements of this section, and of any other section of the General Statutes that adds to or varies these requirements.

(b) The document must meet all of the following requirements:

(1) The document must be one that is required or permitted by Chapter 55, 55A, 55B, 57D, or 59 of the General Statutes to be filed in the office of the Secretary of State.

(2) The document must contain the information required by Chapter 55, 55A, 55B, 57D, or 59 of the General Statutes for that document. It may contain other information as well.

(3) The document must be typewritten, printed, or in an electronic form acceptable to the Secretary of State.

(4) The document must be in the English language. A name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence or a document of similar import required of foreign corporations, foreign nonprofit corporations, foreign limited liability companies, and foreign limited liability partnerships need not be in English if accompanied by a reasonably authenticated English translation.

(5) A document submitted by an entity must be executed by a person authorized to execute documents (i) under G.S. 55-1-20 if the entity is a domestic or foreign corporation, (ii) under G.S. 55A-1-20 if the entity is a domestic or foreign nonprofit corporation, (iii) under G.S. 57D-1-20 if the entity is a domestic or foreign limited liability company, (iv) under G.S. 59-204 if the entity is a domestic or foreign limited partnership, or (v) under G.S. 59-35.1 if the entity is any other partnership as defined in G.S. 59-36 whether or not formed under the laws of the State.

(6) The person executing the document must sign it and state beneath or opposite the person's signature, the person's name, and the capacity in which the person signs. Any signature on the document may be a facsimile or an electronic signature in a form acceptable to the Secretary of State. The document may but need not contain a seal, attestation, acknowledgment, verification, or proof.

(7) If the Secretary of State has prescribed a mandatory form for the document, the document must be in or on the prescribed form.

(8) The document must be delivered to the office of the Secretary of State for filing and must be accompanied by the applicable fees. (1955, c. 1371, s. 1; 1967, c. 13, s. 1; c. 823, s. 16; 1989, c. 265, s. 1; 1989 (Reg. Sess., 1990), c. 1024, s. 12.1(a); 1991, c. 645, s. 15; 1999-369, s. 1.1; 2001-358, ss. 3(a), 4; 2001-387, ss. 173, 175(a); 2001-413, s. 6; 2013-157, s. 7.)

§ 55D-11. Expedited filings.

A person submitting a document for filing may request an expedited filing only at the time the document is submitted. The Secretary of State shall guarantee the expedited filing of the document

if the document is in proper form and accompanied by all applicable fees, including the following fee:

(1) Two hundred dollars ($200.00) for the filing by the end of the same business day of a document received by 12:00 noon; or

(2) One hundred dollars ($100.00) for the filing of a document within 24 hours after receipt, excluding weekends and holidays.

The Secretary of State shall not collect the fees allowed in this section unless the person submitting the document for filing is informed by the Secretary of State of the fees prior to the filing of the document. (1995, c. 539, s. 1; 2001-358, ss. 3(b), 4; 2001-387, ss. 173, 175(a); 2001-413, s. 6.)

§ 55D-12. Advisory review of documents.

Upon request, the Secretary of State shall review a document prior to its submission for filing to determine whether it satisfies applicable filing requirements. Submission of a document for review shall be accompanied by a fee of two hundred dollars ($200.00) and shall be in accordance with procedures adopted by rule by the Secretary of State. The advisory review shall be completed within 24 hours after submission, excluding weekends and holidays, unless the person submitting the document is otherwise notified in accordance with procedures adopted by rule by the Secretary of State fixing priority between submissions under this section and filings under G.S. 55D-11. Upon completion of the advisory review, the Secretary of State shall notify the person submitting the document of any deficiencies in the document that would prevent its filing. (1997-485, s. 6; 2001-358, ss. 3(b), 4; 2001-387, ss. 173, 175(a); 2001-413, s. 6.)

§ 55D-13. Effective time and date of document.

(a) Except as provided in subsection (b) of this section and in G.S. 55D-14, a document accepted for filing is effective:

(1) At the time of filing on the date it is filed, as evidenced by the Secretary of State's date and time endorsement on the filed document; or

(2) At the time specified in the document as its effective time on the date it is filed.

(b) A document may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at 11:59:59 P.M. on that date. A delayed effective date for a document may not be later than the 90th day after the date it is filed.

(c) Except as provided in G.S. 55-2-03(b), 55A-2-03(b), and 57D-2-20(b), the fact that a document has become effective under this section does not determine its validity or invalidity or the correctness or incorrectness of the information contained in the document. (1955, c. 1371, s. 1; 1967, c. 13, s. 1; c. 823, s. 16; 1989, c. 265, s. 1; 1993, c. 552, s. 1; 2001-358, ss. 3(b), 4; 2001-387, ss. 173, 175(a); 2001-413, s. 6; 2013-157, s. 8.)

§ 55D-14. Correcting filed document.

(a) A person on whose behalf a document was filed in the Office of the Secretary of State may correct that document if it (i) contains a statement that is incorrect and was incorrect when filed or (ii) was defectively executed, attested, sealed, verified, or acknowledged.

(b) A document is corrected by delivering to the Secretary of State for filing articles of correction that do all of the following:

(1) Describe the document (including its filing date) or have attached to them a copy of the document.
(2) Specify the incorrect statement and the reason it is incorrect or the nature of the defect.
(3) Correct the incorrect statement or defect.

(c) Articles of correction are effective as of the effective time and date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed. (1989, c. 265, s. 1; 1997-485, s. 14; 2001-358, ss. 3(b), 4; 2001-387, ss. 173, 175(a); 2001-413, s. 6.)

§ 55D-15. Filing duty of Secretary of State.

(a) If a document delivered to the office of the Secretary of State for filing satisfies the requirements of this Chapter and of Chapter 55, 55A, 55B, 57D, or 59 of the General Statutes, the Secretary of State shall file it. Documents filed with the Secretary of State under this Chapter may be maintained by the Secretary either in their original form or in photographic, microfilm, optical disk media, or other reproduced form. The Secretary may make reproductions of documents filed under this Chapter, or under any predecessor law, by photographic, microfilm, optical disk media, or other means of reproduction, and may destroy the originals of those documents reproduced.

(b) The Secretary of State files a document by endorsing "Filed", together with the Secretary's name and official title and the date and time of filing, on the document. After filing a document, the Secretary of State shall deliver a document copy to the person submitting the document for filing and as provided in G.S. 55D-32.

(c) If the Secretary of State refuses to file a document, the Secretary shall return it to the person submitting the document for filing within five days after the document was received, together with a written statement of the date of the refusal and a brief explanation of the reason for refusal. The Secretary of State may correct apparent errors and omissions on a document submitted for filing if authorized to make the corrections by the person submitting the document for filing.

(d) The Secretary of State's duty is to review and file documents that satisfy the requirements of this Chapter and of Chapter 55, 55A, 55B, 57D, or 59 of the General Statutes. The Secretary of State's filing or refusing to file a document does not do any of the following:

(1) Except as provided in G.S. 55-2-03(b), 55A-2-03(b), or 57D-2-20(b), affect the validity or invalidity of the document in whole or part.
(2) Relate to the correctness or incorrectness of information contained in the document.
(3) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect. (1955, c. 1371, s. 1; 1967, c. 13, s. 1; c. 823, s. 16; 1989, c. 265, s. 1; 1989 (Reg. Sess., 1990), c. 1024, s. 12.2; 1993, c. 552, s. 2; 1995, c. 539, s. 2; 2001-358, ss. 3(b), 4, 46; 2001-387, ss. 173, 175(a); 2001-413, s. 6; 2013-157, s. 9.)

§ 55D-16. Appeal from Secretary of State's refusal to file document.

(a) If the Secretary of State refuses to file a document delivered to the Secretary of State's office for filing, the person on whose behalf the document was submitted for filing may, within 30 days after the date of the refusal, appeal the refusal to the Superior Court of Wake County. The appeal is commenced by filing a petition with the court and with the Secretary of State requesting the court to compel the Secretary of State to file the document. The petition must have attached to it

the document to be filed and the Secretary of State's explanation for the refusal to file. No service of process on the Secretary of State is required except for the filing of the petition as set forth in this subsection. The appeal to the superior court is not governed by Chapter 150B of the General Statutes, the Administrative Procedure Act, and shall be determined by a judge of the superior court upon such further notice and opportunity to be heard, if any, as the court may deem appropriate under the circumstances.

(b) Upon consideration of the petition and any response made by the Secretary of State, the court may, prior to entering final judgment, order the Secretary of State to file the document or take other action the court considers appropriate.

(c) The court's final decision may be appealed as in other civil proceedings. (1989, c. 265, s. 1; 1989 (Reg. Sess., 1990), c. 1024, s. 12.3; 2001-358, ss. 3(b), 4; 2001-387, ss. 173, 175(a); 2001-413, s. 6.)

§ 55D-17. Evidentiary effect of copy of filed document.

A certificate attached to a copy of a document filed by the Secretary of State, bearing the Secretary of State's signature and the seal of office (both of which may be in facsimile or in any electronic form approved by the Secretary of State) and certifying that the copy is a true copy of the document, is conclusive evidence that the original document is on file with the Secretary of State. A photographic, microfilm, optical disk media, or other reproduced copy of a document filed under this Chapter, Chapter 55, 55A, 55B, 57D, or 59 of the General Statutes, or any predecessor law, when certified by the Secretary, shall be considered an original for all purposes and is admissible in evidence in like manner as an original. (1955, c. 1371, s. 1; 1989, c. 265, s. 1; 1995, c. 539, s. 3; 2001-358, ss. 3(b), 4; 2001-387, ss. 173, 175(a); 2001-413, s. 6; 2013-157, s. 10.)

§ 55D-18. Penalty for signing false document.

(a) A person commits an offense if the person signs a document the person knows is false in any material respect with intent that the document be delivered to the Secretary of State for filing.

(b) An offense under this section is a Class 1 misdemeanor. (1989, c. 265, s. 1; 1993, c. 539, s. 439; 1994, Ex. Sess., c. 24, s. 14(c); 2001-358, ss. 3(b), 4; 2001-387, ss. 173, 175(a); 2001-413, s. 6.)

§ 55D-19: Reserved for future codification purposes.