

Date of Hearing: April 11, 2011

ASSEMBLY COMMITTEE ON BANKING AND FINANCE
Mike Eng, Chair
AB 657 (Gordon) – As Amended: March 21, 2011

SUBJECT: Corporations: statement of information: Secretary of State.

SUMMARY: Revises and recasts filing requirements and notice requirements concerning documents that need to be filed within the Secretary of State's (SOS) office. Specifically, this bill:

- 1) Allows the SOS's office to receive an annual renewal notice by electronic mail.
- 2) Requires foreign corporations to file an initial Statement of Information within 90 days of formation or registration.
- 3) Allows a common interest development corporation to file a "Statement by Common Interest Development" while the common interest development corporation is suspended.
- 4) Provides that the SOS's office may destroy all superseded and outdated Statement by Common Interest Development forms.
- 5) Standardizes the Statement of Information requirements for credit union corporations.
- 6) Grants a credit union corporation the authority to designate a corporation as agent for service of process.
- 7) Provides that the fee for the initial 90-day Statement of Information for California and foreign limited liability companies (LLCs), credit union corporations and consumer cooperative corporations at \$20.
- 8) Makes other technical changes.

EXISTING LAW

- 1) Requires California corporations to file their initial Statements of Information within 90 days of formation or registration. (Corporations Code, Section 2117)
- 2) Permits a suspended common interest development corporation to file its Statement of Information while still suspended. (Civil Code, Section 1363.6.)
- 3) Permits the Secretary of State to destroy Statements of Information once superseded. (Civil Code, Section 1363.6.)
- 4) Specifies the fees required for corporate filings and LLC filings. (Government Code, Section 12186 and 12190.)

FISCAL EFFECT: Unknown.

COMMENTS: According to the sponsor, Secretary of State, Debra Bowen, "Unfortunately, California statutes have not necessarily kept up to date with the way we do business in the state. For example, the law requires the SOS to mail paper notices to all corporations and LLCs, reminding the entity to file the required annual or biennial Statement of Information. Notices to consumer cooperative corporations, credit union corporations and LLCs must also include a paper copy of the Statement of Information form, which is readily available on the Secretary of State website. As a result, the SOS mails over 1.2 million reminder, delinquency, penalty and suspension notices to businesses at a cost of over \$500,000 in printing and postage each fiscal year. The costs and staff time can be significantly reduced by sending statutory required notices via email to businesses that voluntarily opt to receive their notifications in this fashion."

The Franchise Tax Board concluded that this measure is technical and would not impact the Franchise Tax Board's programs and operations or state income tax revenue.

This bill takes into consideration that not all corporations may be interested in electronic mail and if this is the case these corporations do not need to opt-in to electronic mail therefore they will continue to receive notice by mail.

Several changes to this measure are intended to provide consistency. Currently, the law requires California corporations to file their initial Statements of Information within 90 days of formation or registration but foreign corporations are not required to file an initial state of information until one year after the corporation has qualified to do business in California. AB 657 applies the 90 day requirement to foreign corporations to provide consistency and ease automation of filing.

Existing law permits a suspended common interest development corporation to file its Statement of Information while still suspended, but does not allow the suspended common interest development corporation to file the "Statement by Common Interest Development," which is the most current information about the business. Correcting the inconsistency, this bill would allow the Statement by Common Interest Development to be filed while the common interest development corporation is suspended.

Existing law permits the Secretary of State to destroy Statements of Information once superseded, but does not grant similar authority to destroy Statements by Common Interest Development once superseded. For storage and efficiency purposes, the bill would allow the Secretary of State's office to destroy the superseded and outdated Statement by Common Interest Development forms.

Consistent with the authority provided to all other types of corporations, the bill would standardize the Statement of Information requirements for credit union corporations and grants a credit union corporation authority to designate a corporation as an agent for service of process.

Existing law specifies the fees required for corporate filings and LLC filings. This bill would specify the fee for the initial 90-day Statement of Information for California and foreign LLCs, credit union corporations and consumer cooperative corporations at \$20, which is consistent with other Statement of Information filings. Unspecified filings would otherwise be charged \$30.

REGISTERED SUPPORT / OPPOSITION:

Support

Secretary of State (Sponsor)
California Credit Union League

Opposition

None on file.

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