

HOUSE BILL No. 5290

January 26, 2012, Introduced by Reps. Hooker, Yonker, Hughes, Jenkins, Kurtz, Rendon, Gilbert, Potvin, Callton, Outman, Roy Schmidt, Goike, Haveman, MacGregor and Crawford and referred to the Committee on Commerce.

A bill to amend 1972 PA 284, entitled
"Business corporation act,"
by amending sections 217 and 1060 (MCL 450.1217 and 450.2060), as amended by 2008 PA 402.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 217. (1) A domestic or foreign corporation may transact
2 business under any assumed name or names other than its corporate
3 name, if not precluded from use by section 212, by filing a
4 certificate stating the true name of the corporation and the
5 assumed name under which the business is to be transacted. The
6 certificate is effective, unless sooner terminated by filing a
7 certificate of termination or by the dissolution or withdrawal of
8 the corporation, for a period expiring on December 31 of the fifth
9 full calendar year following the year in which it was filed. ~~The~~
10 **SUBJECT TO SUBSECTION (7), THE** certificate of assumed name may be

1 extended for additional consecutive periods of 5 full calendar
2 years each by filing similar certificates not earlier than 90 days
3 before the expiration of the initial or a subsequent 5-year period.
4 The administrator shall notify the corporation of the impending
5 expiration of the certificate of assumed name not later than 90
6 days before the expiration of the initial or a subsequent 5-year
7 period. A certificate of assumed name filed under this section does
8 not create substantive rights to the use of a particular assumed
9 name.

10 (2) The same name may be assumed by 2 or more corporations, or
11 by 1 or more corporations and 1 or more limited partnerships or
12 other enterprises participating together in a partnership or joint
13 venture. Each participant corporation shall file a certificate
14 under this section.

15 (3) A corporation participating in a merger, or any other
16 entity participating in a merger under section 736, may transfer to
17 the surviving entity the use of an assumed name for which a
18 certificate of assumed name is on file with the administrator
19 before the merger, if the transfer is noted in the certificate of
20 merger as provided in section 707(1)(g), 712(1)(c), or 736(7)(f),
21 or other applicable statute. The use of an assumed name transferred
22 under this subsection may continue for the remaining effective
23 period of the certificate of assumed name on file before the
24 merger, and the surviving entity may terminate or extend the
25 certificate of assumed name in accordance with subsection (1).

26 (4) A corporation surviving a merger may use as an assumed
27 name the corporate name of a merging corporation, or the name of

1 any other entity participating in the merger under section 736, by
2 filing a certificate of assumed name under subsection (1) or by
3 providing for the use of the name as an assumed name in the
4 certificate of merger. The surviving corporation also may file a
5 certificate of assumed name under subsection (1) or provide in the
6 certificate of merger for the use as an assumed name of an assumed
7 name of a merging entity not transferred under subsection (3). A
8 provision in a certificate of merger under this subsection shall be
9 treated as a new certificate of assumed name.

10 (5) A business organization into which a corporation has
11 converted under section 745 may use an assumed name of the
12 converting corporation, if the corporation has a certificate of
13 assumed name for that assumed name on file with the administrator
14 before the conversion, by providing for the use of the name as an
15 assumed name in the certificate of conversion. The use of an
16 assumed name under this subsection may continue for the remaining
17 effective period of the certificate of assumed name on file before
18 the conversion, and the surviving business organization may
19 terminate or extend the certificate of assumed name in the manner
20 described in subsection (1).

21 (6) A corporation into which 1 or more business organizations
22 have converted under section 746 may use as an assumed name the
23 name of any business organization converting into that corporation,
24 or use as an assumed name an assumed name of that business
25 organization, by filing a certificate of assumed name under
26 subsection (1) or by providing for the use of that name or assumed
27 name as an assumed name of the corporation in the certificate of

1 conversion. A provision in the certificate of conversion under this
2 subsection shall be treated as a new certificate of assumed name.

3 (7) IF A CORPORATION DELIVERS A CERTIFICATE TO EXTEND A
4 CERTIFICATE OF ASSUMED NAME FOR FILING BEFORE THE BEGINNING OF THE
5 90-DAY PERIOD DESCRIBED IN SUBSECTION (1), THE ADMINISTRATOR MAY DO
6 EITHER OF THE FOLLOWING:

7 (A) NOTIFY THE CORPORATION THAT IT DELIVERED THE CERTIFICATE
8 AND FEE BEFORE THE ADMINISTRATOR IS AUTHORIZED TO FILE THE
9 CERTIFICATE AND RETURN THE CERTIFICATE AND FILING FEE TO THE
10 CORPORATION.

11 (B) HOLD THE CERTIFICATE AND FEE, FILE THE CERTIFICATE, AND
12 DEPOSIT THE FEE DURING THE 90-DAY PERIOD DESCRIBED IN SUBSECTION
13 (1).

14 Sec. 1060. (1) The fees a person shall pay to the
15 administrator when the documents described in this subsection are
16 delivered to him or her for filing are as follows:

17 (a) Articles of a domestic corporation, \$10.00.

18 (b) Application of a foreign corporation for a certificate of
19 authority to transact business in this state, \$10.00.

20 (c) Amendment to the articles of a domestic corporation,
21 \$10.00.

22 (d) Amended application for a certificate of authority to
23 transact business in this state, \$10.00.

24 (e) Certificate of merger, conversion, or share exchange under
25 chapter 7, \$50.00.

26 (f) Certificate attesting to the occurrence of a merger of a
27 foreign corporation under section 1021, \$10.00.

1 (g) Certificate of dissolution, \$10.00.

2 (h) Application for withdrawal and issuance of a certificate
3 of withdrawal of a foreign corporation, \$10.00.

4 (i) Application for reservation of corporate name, \$10.00.

5 (j) Certificate of assumed name or a certificate of
6 termination of assumed name, \$10.00.

7 (k) Statement of change of registered office or resident
8 agent, \$5.00.

9 (l) Restated articles of domestic corporations, \$10.00.

10 (m) Certificate of abandonment, \$10.00.

11 (n) Certificate of correction, \$10.00.

12 (o) Certificate of revocation of dissolution proceedings,
13 \$10.00.

14 (p) Certificate of renewal of corporate existence, \$10.00.

15 (q) For examining a special report required by law, \$2.00.

16 (r) Certificate of registration of corporate name of a foreign
17 corporation, \$50.00.

18 (s) Certificate of renewal of registration of corporate name
19 of a foreign corporation, \$50.00.

20 (t) Certificate of termination of registration of corporate
21 name of a foreign corporation, \$10.00.

22 (u) Report required under section 911, \$15.00 if paid before
23 October 1, 2003 or after September 30, 2012. After September 30,
24 2003 and before October 1, 2012, the fee is \$25.00.

25 (2) The fees described in subsection (1) are in addition to
26 any franchise fees prescribed in this act. ~~The~~ **EXCEPT AS PROVIDED**
27 **IN SECTION 217(7), THE** administrator shall not refund all or any

1 part of a fee described in this section.

2 (3) Except as provided in subsection (9), the administrator
3 shall deposit all fees received and collected under this section in
4 the state treasury to the credit of the administrator, who may only
5 use the money credited pursuant to legislative appropriation and
6 only in carrying out those duties of the department required by
7 law.

8 (4) The fees described in this section apply to documents
9 filed by a domestic or foreign regulated investment company as
10 defined in section 1064.

11 (5) If any money received by the administrator from fees paid
12 under subsection (1)(u) is not appropriated to the department in
13 that fiscal year, the money remaining from those fees shall revert
14 to the general fund of this state.

15 (6) A minimum charge of \$1.00 for each certificate and 50
16 cents per folio shall be paid to the administrator for certifying a
17 part of a file or record pertaining to a corporation if a fee for
18 that service is not described in subsection (1). The administrator
19 may furnish copies of documents, reports, and papers required or
20 permitted by law to be filed with the administrator, and shall
21 charge for those copies the fee established in a schedule of fees
22 adopted by the administrator with the approval of the state
23 administrative board. The administrator shall retain the revenue
24 collected under this subsection, and the department shall use it to
25 defray the costs for its copying and certifying services.

26 (7) If a domestic or foreign corporation pays fees or
27 penalties by check and the check is dishonored, the fee is unpaid

1 and the administrator shall rescind the filing of all related
2 documents.

3 (8) The administrator may accept a credit card in lieu of cash
4 or check as payment of a fee under this act. The administrator
5 shall determine which credit cards he or she shall accept for
6 payment.

7 (9) The administrator may charge a nonrefundable fee of up to
8 \$50.00 for any document submitted or certificate sent by facsimile
9 or electronic transmission. The administrator shall retain the
10 revenue collected under this subsection and the department shall
11 use it to carry out its duties required by law.