

Reasons and Statistics re: Administrative Dissolution of Business Corporations

Included in the Secretary of State's (SoS) January 17, 2020 letter to the House Legislative Oversight Committee (LOC). This information was provided in response to the following question in LOC's December 12, 2019, letter to the SoS: "17. Please provide a table with the reasons for which a business corporation can be administratively dissolved and, for each reason/condition for each of the last three years include the following: (a) applicable statute; (b) entity responsible for identifying whether the reason/condition exists (e.g., Department of Revenue, Secretary of State's Office); (c) process at the applicable agency to regularly identify the reason/condition, if any (e.g., regular audits, etc.) and (d) number of business corporations administratively dissolved for the reason/condition."

In addition to providing the information in this document, SoS provided the following response:

Please see Attachment A, which sets forth the administrative dissolution process by type of entity and provides the statutory reference, reasons for dissolution and who determines the reason for dissolution, and the action requirements for the process of administrative dissolution when initiated by the Secretary of State's Office. When an entity has failed to file a required filing with the Department of Revenue (DOR), DOR sends notice to the entity. If the problem is not remedied, DOR sends the entity's name and address to the Secretary of State's Office to issue a certificate of administrative dissolution or revocation. The Secretary of State's Office initiates the process of administrative dissolution upon receipt of notice from a member of the public or from staff that a company has failed to maintain accurate registered agent and office information. In addition, the Secretary of State's Office is currently working to finalize a process within the Business Entities Online system to be able to automatically put entities that have no registered agent or office into a queue so that staff can initiate the process of administrative dissolution. This process will also allow for final dissolution and revocation to be calendared from the date of notice so that staff can complete the administrative dissolution or revocation if grounds for dissolution or revocation are not remedied.

While the certificate of administrative dissolution or revocation references the specific reason for administrative dissolution, there is not a mechanism in the database to capture the reason for dissolution as data. Therefore, we cannot provide a report listing the number of entities dissolved for each reason provided under statute. The total number of administrative dissolutions for each of the last several years are as follows:

Calendar Year	2015	2016	2017	2018	2019
Administrative Dissolution	2,852	2,014	1	6,293	3,061

ATTACHMENT A

Administrative Dissolution and Administrative Revocation

Statute	Type	Grounds for Dissolution/Revocation	Action Requirements
33-14-200	Domestic Corporation	<ul style="list-style-type: none"> (1) DOR- Failure to pay taxes on time, failure to deliver annual report, or failure to file required tax returns within 60 days of notice. (2) SoS- Failure of registered agent- either not having one or failure to notify SoS of change. (3) SoS- Period of duration in articles of incorporation expires. 	<ul style="list-style-type: none"> (1) Mail written notice of determination to corporation. (2) If corporation does not correct grounds within 60 days of mailing of written notice, SoS dissolves administratively with certificate of dissolution stating grounds and effective date, files the original, and sends copy to the corporation by registered or certified mail to the registered agent or secretary at the principal office. <p>*If we receive notification from DOR of failure to file tax return within 60 days, we administratively dissolve with certificate of dissolution, grounds, and effective date. We file the original and send a copy certified mail to the registered agent or secretary of the corporation at the principal office.</p>
33-15-300	Foreign Corporation	<ul style="list-style-type: none"> (1) DOR- Failure to pay taxes when due, file annual report, or failure to file required tax return within 60 days of notice. (2) SoS-Failure of registered agent- either not having one or failure to notify SoS of change. (3) SoS- Incorporator, director, officer or agent signs document he/she knows to be false with intent to file with SoS. (4) SoS- Certificate from home state that corporation has been dissolved or disappeared as result of merger. 	<ul style="list-style-type: none"> (1) Mail written notice of determination to corporation. (2) If corporation does not correct grounds within 60 days of mailing of written notice, SoS revokes its certificate of authority by issuing certificate of revocation stating grounds and effective date, files the original, and sends copy to the corporation by registered or certified mail to the registered agent or secretary at the principal office. <p>*If we receive notification from DOR of failure to file tax return within 60 days, the SoS administratively revokes with certificate of dissolution, grounds, and effective date. We file the original and send a copy certified mail to the registered agent or secretary of the corporation at the principal office.</p>

33-44-809	Domestic LLC	(1) DOR- "If the company does not pay a fee, tax, or penalty imposed by this chapter or other law within sixty days after it is due." There is no mechanism to administratively dissolve a domestic LLC for failure to maintain a registered agent or office.	(1) If SoS determines grounds exist, the agency enters a record of the determination and serves the company with a copy of the record. (2) If the grounds are not corrected within 60 days after service, the SoS administratively dissolves by signing a certificate of dissolution reciting grounds for dissolution and the effective date. The SoS files the original and serves the company with a copy.
33-44-1006	Foreign LLC	(1) DOR- Failure to pay taxes, fees, or penalties owed to the State. (2) SOS- Failure of registered agent- either not having one or failure to notify of change. (3) SOS- Misrepresentation of a material matter in any application or other record submitted by the LLC.	(1) Send notice of revocation 60 days before effective date to registered agent, or, if failure to maintain an agent, send to designated office. (2) The notice must specify causes for revocation. (3) If grounds are not cured, authority is revoked on the effective date.
33-31-1420, - 1421	Domestic Nonprofit	(1) SOS- Does not deliver report of change of principal office when due. (2) SOS- No registered agent or office or notification of change in registered agent and/or office. (3) SOS- Period of duration, if any, in articles of incorporation expires. (4) SOS- Corporation has been adjudicated bankrupt under Chapter 7 of US Bankruptcy Code.	(1) After determining grounds exist, serve written notice on corporation. If a public benefit corporation, also notify Attorney General's Office in writing. (2) If grounds are not corrected within 60 days after service perfected under 33-31-504, SoS administratively dissolves by signing certificate of dissolution giving grounds for dissolution and effective date. SoS files the original certificate and serves a copy on the corporation and, if a public benefit corporation, notification in writing to the Attorney General's Office.
33-31-1530, - 1531	Foreign Nonprofit	(1) SOS- Does not deliver report of change of principal office when due. (2) SOS- No registered agent or office or notification of change in registered agent and/or office. (3) SOS- Period of duration, if any, in articles of incorporation expires. (4) SOS- SoS receives certificate from SoS of state of incorporation that foreign nonprofit has been dissolved or disappeared as result of merger. (5) SOS- Corporation has been adjudicated bankrupt under Chapter 7 of US Bankruptcy Code.	(1) SoS serves written notice of determination that grounds exist to revoke authority. (2) If grounds are not corrected within 60 days after service of notice, the SoS revokes certificate of authority by signing a certificate reciting the grounds and effective date. The SoS files the original and serves a copy on the corporation and, if a public benefit corporation, notifies the Attorney General's Office in writing.