

Topic: Future Effective Dates on Filings – LLCs

Question by: Tracy Sebranek

Jurisdiction: Maine

Date: 2011 May 23

Jurisdiction	Question(s)			
	<p>On new LLC's Articles of Organization; if they have given a future effective date what status do you give as of the filed date?</p>	<p>Would you issue a certificate of existence before the effective date?</p>	<p>On Articles of Dissolution; do you change the status to be dissolved on the filed date? Or, do you wait until the future effective date, stated on the form, to change the status to dissolved?</p>	<p>Would you issue a certificate of existence <u>before</u> the effective date on a filed dissolution?</p>
Manitoba				
Corporations Canada	<p>Corporations Canada is responsible for incorporating businesses and not-for-profit organizations that choose to incorporate federally rather than provincially or territorially in Canada. Our corporate-law statutes do not recognize LLCs, so we have not answered your first two questions.</p>		<p>We enter the future effective date into our system. Our system will not show the corporation as dissolved until that date.</p>	<p>Yes.</p>
Alabama				
Alaska				
Arizona				
Arkansas				
California	<p>California law does not allow a limited liability company to request a future effective date for Articles of Organization.</p>	<p>See answer to question 1.</p>	<p>The status of a limited liability company is not changed until the day of the future effective date.</p>	<p>A certificate of existence may be issued prior to the effective date of a cancellation but would state the limited liability company's status as it exists prior to the effective date of the cancellation.</p>

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Colorado	Effectiveness Delayed.	No.	Status changes on the effective date of the dissolution (the future date).	Yes, it would be issued up until the effective date of dissolution.
Connecticut				
Delaware				
District of Columbia				
Florida	<p>The certificate would read that the Articles of Organization were filed on June 1, 2011, effective July 1, 2011. Our certificates of status do not use the words “active” or “inactive”. The language states whether or not “Articles of Dissolution” have been filed or if the LLC was administratively dissolved for failure to file an annual report (thus implying that the entity is “active”). One of these statements would be included but would most likely never apply to a newly formed LLC.</p>	No.	<p>The status would be changed when the Articles of Dissolution are filed. We seldom if ever have one of these. I’m not aware of this issue coming up. If the entity brought it to our attention we could reissue a certificate that more correctly addresses the situation.</p>	No.
Georgia				

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<p>Hawaii</p>	<p>Hawaii does not allow a future effective for LLC's.</p>	<p>No, we will not issue a certificate of existence before the effective/ registration date.</p>	<p>Dissolutions, conversions and mergers can be effective upon filing or it can have a future effective date. Dissolutions is either dissolved upon the filed date or a future effective date, but, it may not go beyond 30 days in the future. If the entity has a future effective date, the status is not updated until that future date. We do wait until that future effective date.</p>	<p>Hawaii issues a certificate of existence if the entity is not dissolved, withdrawn, cancelled or terminated.</p>
<p>Idaho</p>				
<p>Illinois</p>				
<p>Indiana</p>				
<p>Iowa</p>				
<p>Kansas</p>	<p>The effective date is the date filed with our office.</p>	<p>Yes, we would since all paperwork is in good standing in our office.</p>	<p>The effective date is the date filed with our office.</p>	<p>The LLC would be dissolved the date they filed with our office so at that point it would show dissolved. If the client stated they knew it was dissolving but it wasn't effective yet, we would dig and if we could substantiate the comment we have a way to create the certificate for them. It's manually intensive but it has happened.</p>
<p>Kentucky</p>				

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Louisiana				
Maine				
Maryland				
Massachusetts				
Michigan				
Minnesota				
Mississippi				
Missouri				
<p>Montana</p>	<p>Montana law states “Unless a delayed effective date is specified, the existence of a limited liability company begins when the articles of organization are filed.”, therefore, the entity receives a filed date but we show the date of organization as the future effective date. Their status is active but the future date shows.</p>	<p>No.</p>	<p>We change the status to inactive as of the filed date.</p>	<p>Yes.</p>
Nebraska				
Nevada				

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New Hampshire	They receive a filed date but we show the incorporation or formation date as the future effective date. Their status is active but the future date shows.	No.	Yes, we change the status to inactive as of the filed date, but show the expiration date as the future date.	Yes, up to, but not including, the effective date of a filed dissolution.
New Jersey				
New Mexico				
New York				
North Carolina				
North Dakota				
Ohio	Ohio Revised Code (ORC) 1705.04(A)(3) states that the legal existence of the company begins upon the filing of the articles of organization or on a later date specified in the articles of organization that is not more than 90 days after the filing.	We do not issue a certificate of existence (full force and effect certificate) until the effective date or after, but not before.	ORC 1705.43 states that the LLC shall deliver a certificate of dissolution that delivers the name of the company and the effective date of the dissolution. It does not specifically state whether or not a future effective date is allowed or not. Our policy is to accept a dissolution with any effective date.	Yes.
Oklahoma				
Oregon				
Pennsylvania				
Rhode Island				
South Carolina				

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South Dakota				
Tennessee				
Texas	<p>Texas has adopted an administrative rule about future (or delayed in our terminology) dates [see Rule § 79.73 below]. I think this answers most of your questions.</p>	<p>We would issue a certificate of status (existence) with the delayed effective date noted.</p>		
Utah	<p>Status, pending, until the effective date is reached, then active.</p>	<p>No.</p>	<p>Yes. Dissolved as of filing of dissolution.</p>	<p>Not if the dissolution was prior to effective date (using the examples above). If a dissolution is filed with a future effective date on an active entity, then we would issue a certificate of existence because the entity would be active until the effective date of the dissolution.</p>
Vermont				
Virginia				
Washington	<p>They receive a filed date but we show the incorporation or formation date as the future effective date. Their status is active but the future date shows.</p>	<p>No.</p>	<p>Yes, we change the status to inactive as of the filed date, but show the expiration date as the future date.</p>	<p>Yes, up to, but not including, the effective date of a filed dissolution.</p>

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West Virginia				
Wisconsin				
Wyoming				

Additional comments:

From TX:

RULE §79.73: Documents with Delayed Effective Dates

(a) Upon the filing of a document with a delayed effective date, the computer records of the secretary of state will be changed to show the filing of the document, the date of the filing, the future date on which the document will be effective or a code indicating that the effectiveness is based on a future condition, and the name of the surviving entity or entities, if applicable. In addition, at the time of such filing:

(1) the status of any domestic entity on file with the secretary of state that is converting, merging out of existence, or terminating, will be changed from active to inactive, and the status of any foreign entity withdrawing or terminating its registration will be changed from active to inactive;

(2) the status of any domestic entity to be created and filed with the secretary of state by the terms of a plan of merger, plan of conversion, or certificate of formation, or the status of any foreign entity registered to transact business in Texas shall appear in the active records of the secretary of state; and

(3) any filings making amendments to a certificate of formation or application for registration will be recorded in the records of the secretary of state.

(b) Upon filing of the document:

(1) the name of any domestic entity on file with the secretary of state which is converting, merging out of existence, or terminating, or the name of any foreign entity withdrawing or terminating its registration will not appear in the active records and will not be a bar to reservation or registration of an entity name or creation of an entity under a name which is the same as, deceptively similar to, or similar to the name of the converting, merging, or terminating domestic entity or the withdrawing or terminating foreign entity;

(2) the name of any domestic entity to be created and filed with the secretary of state by the terms of a plan of merger, plan of conversion, or certificate of formation, or the name of any foreign entity registered to transact business in Texas will appear in the active records of the secretary of state and will be a bar to reservation or registration of any entity name or creation of an entity under a name which is the same as, deceptively similar to, or similar to the name of an entity to be created or authorized to transact business in Texas by one of the document filings listed in this section; and

(3) if a document filing provides for a change of name of an entity previously on file with the secretary of state, the new name of the entity will appear in the active records of the secretary of state and will be a bar to reservation or registration of any entity name or creation of an entity under a name which is the same as, deceptively similar to, or similar to any new name of the entity as provided in the document filing;

(4) if a document filing provides for an amendment to the certificate of formation or application for registration, the secretary of state will change the computer

records to reflect any amendments to information which may be obtained from the computer database (e.g., authorized stock, registered agent/registered office, the name of a general partner).

Full text of email:

Good Morning,

Maine would like to know how each of you handles future effective dates on filings. Maine law allows for a 90 day future effective date from the date filed.

1. On new LLC's Articles of Organization; if they have given a future effective date what status do you give as of the filed date?
2. Would you issue a certificate of existence before the effective date?
3. On Articles of Dissolution; do you change the status to be dissolved on the filed date? Or, do you wait until the future effective date, stated on the form, to change the status to dissolved?
4. Would you issue a certificate of existence before the effective date on a filed dissolution?

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