

Topic: Dissolved Entities and Reinstatement

Question by: Sarah Steinbeck

Jurisdiction: Colorado

Date: 2011 June 20

Jurisdiction	Questions				
	How many years after dissolution does an entity have to reinstate?	If an entity wants to reinstate after the period for reinstatement has expired, is there a way they can still reinstate (such as obtaining a court order)?	Do you maintain information on dissolved entities in your database?	If yes, is the information removed after some time period?	Do you have any other information or thoughts about dissolution, reinstatement or the availability of information on dissolved entities that you would like to share?
Manitoba	No time limit.	N/A	Yes, but information about "older" (3 to 5 years gone?) dissolved entities gets archived, and is not easily accessible by the public.	3-5 years	We've never seen a need to put a time limit on reinstatements.
Corporations Canada	There is no limit.	N/A	Yes	No	
Alabama					
Alaska					
Arizona					
Arkansas					

Jurisdiction	Questions				
	How many years after dissolution does an entity have to reinstate?	If an entity wants to reinstate after the period for reinstatement has expired, is there a way they can still reinstate (such as obtaining a court order)?	Do you maintain information on dissolved entities in your database?	If yes, is the information removed after some time period?	Do you have any other information or thoughts about dissolution, reinstatement or the availability of information on dissolved entities that you would like to share?
California	<p>A limited partnership can file a Certificate of Revival to revive a cancelled limited partnership if the limited partnership was cancelled on or after January 1, 2008 and at least one of the general partners listed in the Certificate of Limited Partnership at the time the limited partnership was cancelled is still a general partner. There are no time constraints.</p> <p>A corporation cannot reinstate after dissolution except by court order.</p> <p>A limited liability company cannot reinstate after cancellation except by court order.</p>	See reply [left].	Yes.	No.	
Colorado	Dissolved domestic entities may be reinstated; no time limit.	N/A	Yes.	No, it is retained indefinitely.	
Connecticut					
Delaware	<p>Pursuant to 311 of the Delaware General Corporation Law corporations may revoke a voluntary dissolution within three years of the date of the dissolution. For alternative entities there are not any provisions to revoke after a voluntary cancellation.</p>	There are provisions in 311 regarding the jurisdiction and power of the Court of Chancery.	Yes.	No.	
District of Columbia	Unlimited.	N/A	Yes.	No.	Current system worked very well.

Jurisdiction	Questions				
	How many years after dissolution does an entity have to reinstate?	If an entity wants to reinstate after the period for reinstatement has expired, is there a way they can still reinstate (such as obtaining a court order)?	Do you maintain information on dissolved entities in your database?	If yes, is the information removed after some time period?	Do you have any other information or thoughts about dissolution, reinstatement or the availability of information on dissolved entities that you would like to share?
Florida	Indefinitely. The name is held for one year. If the entity reinstates after one year and the name is not available, the entity must simultaneously file a name change with the Reinstatement.	N/A	Nothing is ever removed from the database.		I've always wondered how an entity could get clear title to property if it could not reinstate and had to form a new entity. There are two entities, most often with the same name, and it's the same people but there's no continuity for a clear title. How does this work in the states that only allow a limited time for reinstatement?
Georgia	An entity can reinstate within 5 years from dissolution. The name is held during the entire 5 years.	The entity can appeal to the Clerk of the Superior Court to get reinstated.	Yes.	Permanently retained.	
Hawaii	After administrative dissolution, the entity has 2 years to file a reinstatement application with delinquent annuals, tax clearance certificate and payment of all filing & penalty fees.	Yes, the entity may appeal the denial of reinstatement to the circuit court within 30 days after the notice of denial is mailed. The court may order the department director to reinstate the dissolved entity.	Yes.	No.	When an entity files for reinstatement, the business name must be cleared again for availability in Hawaii. If the name is not available, it would need to file a name change amendment together with reinstatement application.
Idaho					
Illinois	No statute of limitations on reinstatement from involuntary dissolution.	Court order works in any case.	Yes.	No.	Corporations dissolved before 1987 would appear in our history file database.

Jurisdiction	Questions				
	How many years after dissolution does an entity have to reinstate?	If an entity wants to reinstate after the period for reinstatement has expired, is there a way they can still reinstate (such as obtaining a court order)?	Do you maintain information on dissolved entities in your database?	If yes, is the information removed after some time period?	Do you have any other information or thoughts about dissolution, reinstatement or the availability of information on dissolved entities that you would like to share?
Indiana	Unlimited	N/A	Yes.	In our current version of the database – we maintain the information- we do not purge data.	Not at this time. Indiana is working on a retention schedule for electronically born data – and the continued need to microfilm.
Iowa					
Kansas	An entity can file a revocation of dissolution within three years following the dissolution, or longer if court instructed. If they forfeit that is different.	If dissolved they can ask for revocation, but they can't revoke after three years.	Yes.	No it is maintained forever	We would like to amend our LLC law so they can reinstate due to loss of resident agent. We are looking forward to reviewing the model LLC act to see if this is taken into account. We will attempt to introduce legislation next session.
Kentucky					
Louisiana	There is no time limit. However the entities name is available for use after three years if not reinstated. So we would allow a reinstatement to be filed then a simultaneous name change must be filed.		Yes.	No.	
Maine	6 years after the date of ADI.	Maine has a provision for the entity to “revive” for a period of time. The statute can be found at http://www.mainelegislature.org/legis/statutes/13-C/title13-Csec1425.html	Yes.	No.	

Jurisdiction	Questions				
	How many years after dissolution does an entity have to reinstate?	If an entity wants to reinstate after the period for reinstatement has expired, is there a way they can still reinstate (such as obtaining a court order)?	Do you maintain information on dissolved entities in your database?	If yes, is the information removed after some time period?	Do you have any other information or thoughts about dissolution, reinstatement or the availability of information on dissolved entities that you would like to share?
Maryland					
Massachusetts					
Michigan	A Corporation can always reinstate as long as it is formed under the Business Corporation Act.	There is no expiration for reinstatement.	Yes	No, it would remain in our current database.	No.
Minnesota					
Mississippi	There's no limit on the number of years.		Yes.	No.	
Missouri	A voluntarily dissolved entity cannot reinstate except by court order; administratively dissolved entities can reinstate at any time (no time limit).	N/A	Yes	The information is not removed.	We have had several instances in the last year where a voluntarily dissolved entity sought and received a court order requiring the SOS to reinstate the entity. Heretofore this had not happened.
Montana					

Jurisdiction	Questions				
	How many years after dissolution does an entity have to reinstate?	If an entity wants to reinstate after the period for reinstatement has expired, is there a way they can still reinstate (such as obtaining a court order)?	Do you maintain information on dissolved entities in your database?	If yes, is the information removed after some time period?	Do you have any other information or thoughts about dissolution, reinstatement or the availability of information on dissolved entities that you would like to share?
Nebraska	Our statutes currently allow an entity to always reinstate after dissolution as long as their name is still available. (with the exception of Limited Liability Partnerships which have only 2 years to reinstate). To reinstate all other entities must file their most recent biennial report, pay a reinstatement fee and any for profit corporation must pay interest on all missing biennial reports (we protect the name for a year after dissolution).	LLP's after two years would have to start the filing process from the beginning.	Yes the information remains in our database displaying as inactive status.	Currently our information remains in perpetuity.	Nothing further.
Nevada	A dissolved entity may be “revived” at any time (after dissolution documents filed.) An entity whose right to do business has been revoked (administrative dissolution) may reinstate for up to 5 years after being placed in revoked status. An entity whose status is permanently revoked, who has remained in revoked status for more than 5 years may be “revived” at any time after permanent revocation.	Revoked entities must follow the statutory process fro reinstatement. Permanently revoked entities too must follow a statutory process for revival (more documents, higher fees. Currently no court order.	Yes.	Not since 2005. With the previous system certain information was removed, but retrievable in the case of revival.	

Jurisdiction	Questions				
	How many years after dissolution does an entity have to reinstate?	If an entity wants to reinstate after the period for reinstatement has expired, is there a way they can still reinstate (such as obtaining a court order)?	Do you maintain information on dissolved entities in your database?	If yes, is the information removed after some time period?	Do you have any other information or thoughts about dissolution, reinstatement or the availability of information on dissolved entities that you would like to share?
New Hampshire	<p>Answers are for corporations and limited liability companies.</p> <ul style="list-style-type: none"> - 120 days from date of dissolution to reinstate without any extra certification from other agencies. - Three years and requires a statement from NH Department of Revenue that no taxes are due and owing. - + Three years - requires a statement from NH Department of Revenue that no taxes are due and owing; certificate from Department of Employment Security of good standing with that department, public notice in statewide newspaper, and must attend public hearing held twice a year. <p>Let me add that if dissolution is voluntary, corporations only may revoke dissolution within 120 days of filing for voluntary dissolution.</p>	<p>Third bullet [of response to Q1, left] was added by legislature as previously legislative action was the only means to reinstate after three years.</p>	<p>Yes.</p>	<p>No.</p>	<p>The hearing is paneled by an attorney from the Department of Justice, an attorney from the Secretary of State Securities Regulation Bureau, and a representative from the Secretary of State Corporation Division. So far this has deterred attempts at corporate identity theft.</p>
New Jersey	<p>No timeframe.</p>	<p>There is no limitation.</p>	<p>Yes.</p>	<p>No.</p>	
New Mexico					
New York					

Jurisdiction	Questions				
	How many years after dissolution does an entity have to reinstate?	If an entity wants to reinstate after the period for reinstatement has expired, is there a way they can still reinstate (such as obtaining a court order)?	Do you maintain information on dissolved entities in your database?	If yes, is the information removed after some time period?	Do you have any other information or thoughts about dissolution, reinstatement or the availability of information on dissolved entities that you would like to share?
North Carolina	There is no time limit on adm. dissolved entities. However, the name is only held for five (5) years after adm. dissolution. Voluntary dissolution can be revoked up to 120 days.	If a business entity wants to revoke the dissolution more than 120 days after the voluntary dissolution, they will need to refile Articles, as if they are starting over again.	Yes in the database, no in paper documents. The retention schedule for withdrawn or dissolved entities is set. Once the documents are imaged and gone through QC, the documents can be destroyed.	No in the database.	
North Dakota	1 year.	After the 1-year reinstatement period, an entity must acquire a court order for reinstatement.	Yes, but not on our website. Dissolved entities are only hosted on our web database for 1 year after dissolution.	It is never removed from the back office database; it is a permanent record.	The court-ordered reinstatement has served us very well. We have not had any reports of entity identity theft.

Jurisdiction	Questions				
	How many years after dissolution does an entity have to reinstate?	If an entity wants to reinstate after the period for reinstatement has expired, is there a way they can still reinstate (such as obtaining a court order)?	Do you maintain information on dissolved entities in your database?	If yes, is the information removed after some time period?	Do you have any other information or thoughts about dissolution, reinstatement or the availability of information on dissolved entities that you would like to share?
Ohio	Ohio law does not permit an entity to reinstate after filing a dissolution, they may only reinstate if they were cancelled.	There is no time limit on a reinstatement after a cancellation except for Limited Liability Partnerships which must reinstate within 2 years of the date of cancellation.	We do maintain information on dissolved entities on our database and permit them to update statutory agent information following a dissolution, this information is not removed.		
Oklahoma					
Oregon	Normally, an entity can only reinstate within 5 years of dissolution.	Anything can be done by court order. Beginning 1/1/2012, entities will be able to request a waiver to the limit based on proof of continued existence.	Yes	After 20 years.	One thing we've been struggling with is what, if any, changes to the record can be made by dissolved entities. In particular, individuals who were put on the record against their will or have disassociated with the company strongly wish to have the record reflect their current (non)relationship with the entity. [See remainder of response below].
Pennsylvania					

Jurisdiction	Questions				
	How many years after dissolution does an entity have to reinstate?	If an entity wants to reinstate after the period for reinstatement has expired, is there a way they can still reinstate (such as obtaining a court order)?	Do you maintain information on dissolved entities in your database?	If yes, is the information removed after some time period?	Do you have any other information or thoughts about dissolution, reinstatement or the availability of information on dissolved entities that you would like to share?
Rhode Island	<p>Entities have 10 years from the date of revocation to reinstate through our office. An entity name is held for one-year from the date of revocation, after it is available for use again. If reinstatement is filed after the first year and the entity name is no longer available, an amendment is required as part of the filing.</p> <p>Reinstatement: Filer must complete and remit for filing all outstanding reports and/or Change of Agent/Registered Office; a penalty fee is assessed for each year of revocation; and for LLCs and Business Corporations a letter of good standing must be obtained from the Division of Taxation for the purpose of "Reinstatement."</p> <p>Tax good standings are a reflection of corporate tax status, withholding tax (including unemployment tax) and sales tax.</p> <p>Answers [above & right] address Administrative Dissolution or Revocation of a charter due to non-compliance. Opposed to voluntary dissolution when the corporation is formal dissolved by filing Articles of Dissolution.</p>	<p>The Legislature can vacate a revocation. The entity would petition the Assembly (House or Senate) for relief, a bill is introduced and passed. The entity is still obligated to file all outstanding filings, pay fees and penalties owed to this office, and obtain a letter of good standing from the Division of Taxation.</p>	<p>Yes. We have an "active" and "inactive" database. No reinstatements can be filed electronically.</p>	<p>No.</p>	
South Carolina					
South Dakota					
Tennessee					

Jurisdiction	Questions				
	How many years after dissolution does an entity have to reinstate?	If an entity wants to reinstate after the period for reinstatement has expired, is there a way they can still reinstate (such as obtaining a court order)?	Do you maintain information on dissolved entities in your database?	If yes, is the information removed after some time period?	Do you have any other information or thoughts about dissolution, reinstatement or the availability of information on dissolved entities that you would like to share?
Texas	Indefinite after an involuntary termination (dissolution). Three years after a voluntary termination (dissolution). Same periods apply to a foreign entity for reinstatement after revocation of its registration.	SOS would comply with a court order to reinstate if the SOS was a party to the litigation.	Yes.	No. Permanent retention if required for information regarding business entities. [See. Texas Code below.]	Name is immediately available upon the termination of existence of the entity irrespective of its right to reinstate. Tex. Atty. Gen. Op. No. WW-841 (1960).
Utah	Two years by statute. After voluntary dissolution the entity has 120 days to revoke the dissolution. There is no reinstatement.	Court orders always speak loudly! also mitigating circumstances (ie, we made a mistake in data entry, etc).	Yes we do.	Not so far.	I believe there should be a middle step, and administrative hearing...if the entity is dissolved just because they failed to file the annual renewal, but have continued business, paying taxes, no outstanding litigation, etc., there should be some remedy for them.
Vermont					

Jurisdiction	Questions				
	How many years after dissolution does an entity have to reinstate?	If an entity wants to reinstate after the period for reinstatement has expired, is there a way they can still reinstate (such as obtaining a court order)?	Do you maintain information on dissolved entities in your database?	If yes, is the information removed after some time period?	Do you have any other information or thoughts about dissolution, reinstatement or the availability of information on dissolved entities that you would like to share?
Virginia	5 years, even for voluntary dissolutions.	No.	Yes, but after 5 years, you have to go to microfiche for anything other than the name.	See [left].	As to [Florida's] inquiry, upon automatic dissolution (for failing to pay a fee, etc.), the directors of a corporation or managers or members of a LLC, by operation of law, become trustees in liquidation. In this capacity, they can give a deed to the property to the persons who were shareholders/members in accordance with their respective interests, sell the property and distribute cash, or, if the shareholders/members agree, deed the property to a new business entity, which may or may not have the same name as the dissolved entity. The authority to act as a trustee in liquidation does not end after 5 years. A circuit court can also be petitioned to wind up the affairs of the dissolved entity.
Washington	From an administrative dissolution, 5 year for profit corporations and LLCs and 3 years for nonprofit corporations. From a voluntary dissolution, profit corporations and LLCs have 120 days and nonprofits have no time.	Only nonprofit corporations have a relief statute that allows for reinstatement after any number of years if they meet certain requirements. Profit corporations and LLCs have no such relief, although the law does allow for a court order in the case of profit corporations.	Yes, although they cannot file changes on a dissolved entity.	No – our information is considered archival.	We're looking for ways to reduce the cycle of administrative dissolutions and reinstatements. Better instructions, better use of web and mail inserts, educational events, etc. are all some of the things we are trying. So far, no reduction – sigh.
West Virginia					

Jurisdiction	Questions				
	How many years after dissolution does an entity have to reinstate?	If an entity wants to reinstate after the period for reinstatement has expired, is there a way they can still reinstate (such as obtaining a court order)?	Do you maintain information on dissolved entities in your database?	If yes, is the information removed after some time period?	Do you have any other information or thoughts about dissolution, reinstatement or the availability of information on dissolved entities that you would like to share?
Wisconsin	For a voluntary dissolution, they have 120 days to revoke the dissolution. For administrative dissolution, there is no time limit to reinstate. They can reinstate at any time.	N/A	Yes	No	No
Wyoming					

Additional comments:

Oregon Response - continued: Also, we have limits to reinstatement to mitigate the corporate identity theft issue, where people not truly associated with an old company will try to pick up the record to make themselves appear to be an old and established firm. This happened particularly with mining companies in our state. So we're in favor of limits, but recognize that often companies miss filing annual reports and should be able to rectify the oversight to reflect actual history.

Finally, I think there's a real disconnect between the lack of active status of an entity on our records and the legal consequences thereof. Many customers have pointed out to me that there's no real incentive to stay active, and some advantages not to. Courts don't really enforce the lack of standing through inactive status, because the company can reinstate when and if they get sued. It's really up to the business partners to encourage filing, and if they don't, there's no reason a company should stay up to date. It contributes to the underground economy, and I believe, with the difficult financial times, there's been a real increase in the number of people who just choose not to pay the fee and chance the consequences. Which is a disservice to the general public.

Texas Government Code:

Sec. 405.020. PUBLIC RECORDS. (a) The secretary of state shall permanently maintain as a public record any instrument, or the information included in any instrument, that is filed with the secretary of state evidencing the organization of, or otherwise in connection with, any entity formed under the laws of this state.

(b) The secretary of state shall maintain the records required under Subsection (a) in any form the secretary of state considers appropriate.

Utah added: Thanks for all your hard work, Sarah!

Full text of email:

Hello everyone! I have a few brief questions to help us provide better information at the NASS Conference.

1 – How many years after dissolution does an entity have to reinstate?

2 – If an entity wants to reinstate after the period for reinstatement has expired, is there a way they can still reinstate (such as obtaining a court order)?

3 – Do you maintain information on dissolved entities in your database?

4 – If yes, is the information removed after some time period?

5 – Do you have any other information or thoughts about dissolution, reinstatement or the availability of information on dissolved entities that you would like to share?

Thank you for your help!

Sarah

Sarah Steinbeck

Senior Legislative and Legal Analyst, Business & Licensing Division, Colorado Secretary of State

Voice: 303.894.2200 ext. 6211 Email: sarah.steinbeck@sos.state.co.us Web site: www.sos.state.co.us