

Topic: Legal Questions
 Question by: Mandy Harlan
 Jurisdiction: Louisiana
 Date: July 15, 2013

Jurisdiction	Question(s)
	Do you have a legal staff customers can talk to or would you refer them to an attorney or other resource.
Manitoba	
Corporations Canada	
Alabama	It is the same in Alabama – we suggest they seek legal advice from an attorney.
Alaska	
Arizona	In Arizona (at the Corporation Commission), we have a Legal Division, but they represent the Commission and its staff, and cannot, therefore, give legal advice of any kind to the public. We also have an "unauthorized practice of law" Supreme Court Rule here, which requires that document preparers be licensed, so we are very limited in what we can and cannot do for customers. We treat these situations the same as Louisiana.
Arkansas	
California	California has a legal staff that among other duties review complex documents being submitted for filing. We provide written reasons why the document submitted doesn't comply with law, if the document can't be filed. We don't give legal advise as to what type of entity one should form, etc. We suggest customers seek private legal counsel.
Colorado	
Connecticut	
Delaware	

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	Do you have a legal staff customers can talk to or would you refer them to an attorney or other resource.
District of Columbia	<p>In DC my staff would not give legal advice to our customers. We would give the definition of each entity type and provide comparison and refer them to our site for more information.</p> <p>It's a touchy subject since we do not know all the ins and outs of the particular business. Attorney is best equipment to do that since they will go through the wizard questionnaire and then based on the response will give legal advice.</p> <p>We would refer customers to our Business Resource Center where customer can make one on one appointment with pro bono attorney free of charge to go over legal questions as to what is the best form of doing business, etc.</p>
Florida	The Florida Department of State is strictly ministerial and does not Offer or render any legal, accounting or tax advice. The Department's Attorneys assist the various divisions as needed. All legal questions must be reviewed by the filer's and/or entities legal counsel.
Georgia	
Hawaii	Hawaii does not provide legal advice and we suggest that they contact an attorney if they do.
Idaho	Idaho is similar to Louisiana. We gracefully inform customers that they will need to contact an attorney.
Illinois	See below additional comments
Indiana	
Iowa	
Kansas	Kansas is similar to Ohio. The attorneys in our office also review all mergers, trademarks, service marks, and some atypical filings.
Kentucky	
Louisiana	
Maine	Maine is the same as Washington
Maryland	
Massachusetts	In Massachusetts we do not provide any legal advice. We would suggest they speak with a private attorney
Michigan	In Michigan we do not provide legal advice; we encourage staff to seek appropriate counsel and suggest the State Bar Business Law Section.

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	Do you have a legal staff customers can talk to or would you refer them to an attorney or other resource.
Minnesota	<p>In Minnesota, I am the only attorney on staff at this time, and have been for some time.</p> <p>As many other states have stated, there are issues with unauthorized practice of law (UPL) when a staff person provides advice. And in fact, I , a licensed attorney for 34 years, only provide 'advice' to my client, the Secretary of State, and his staff. However, there is a difference between 'advice' which I interpret to be the application of the law to the specific situation of a person and the making of recommendations on which actions to take and how to go about those actions, versus information. Information can be provided more freely, even in some detail, as long as it is in the abstract and not specifically linked to the situation of the person inquiring. However, one should be careful in responding for other reasons, such as the allocation of the scarce resource of the time of the attorney, as well as the risk at which one could possibly place the office if the information is inaccurate.</p> <p>An appropriate amount of information can be of great service in helping members of the public avoid ill-informed and sometimes costly decisions.</p> <p>We do often recommend that the customer seek counsel if they wish to receive 'advice,' especially in complicated situations, but I think it is a good idea to listen to the question first and see whether a small amount of information can be provided that may meet the needs of the customer.</p>
Mississippi	
Missouri	Missouri is like Hawaii
Montana	<p>Montana has pretty much the same way of handling the question as Louisiana does.</p> <p>We specify we can answer their questions about how to file, and any questions about where to find Montana Code Annotated statutes that apply, but not what to file and advise them to talk to an attorney or CPA for information specific to their situation.</p>
Nebraska	
Nevada	We cannot give legal advice. We refer them to their own private counsel.
New Hampshire	
New Jersey	
New Mexico	
New York	NY is the same as RI.

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	Do you have a legal staff customers can talk to or would you refer them to an attorney or other resource.
North Carolina	North Carolina is the same as Louisiana. We always refer customers to seek legal advice from an attorney of their choosing.
North Dakota	North Dakota offers general information, provides the proper forms, etc., but does not provide legal advice. We suggest they consult legal counsel.
Ohio	In Ohio we have attorneys in the Business Services Division to assist with customer questions, but we cannot offer legal advice. Our customer service employees might pass on a customer call to an attorney if it involves more complicated subjects or legal issues, and our attorneys will try to assist as much as possible. The attorneys in our office frequently talk to other attorneys who contact our office prior to submitting a filing, and we can be of assistance to them by directing them to the applicable section of the law or answering procedural questions, but we do not make decisions or recommendations about which type of entity to file, etc.
Oklahoma	Oklahoma is the same. We do not house a legal staff, nor do we provide legal advice.
Oregon	We have no attorneys in our office, and even if we did, we couldn't offer legal advice. We tell people to seek counsel and other help (such as small business development centers) because a little money upfront is often going to save you a lot down the road.
Pennsylvania	PA does not provide any legal advice to filers in terms of the type of entity to be filed. We do have an attorney that on occasion, will explain why a filing was rejected, or provide assistance in correctly completing a rejected filing. She does speak to attorneys regarding the completion of forms. She typically contacts sovereigns when their filings are rejected.
Rhode Island	Rhode Island is similar to most of the reported States. We do not provide legal advice to our customers. We do have in-house Legal Counsel to assist our office and in a limited capacity he is available to speak with other attorneys representing filers. Otherwise, we suggest they obtain their own counsel. All of our instruction sheets contain this instruction: The attached form is designed to meet minimal statutory filing requirements pursuant to the relevant statutory provision. This form and the information provided are not substitutes for the advice and services of an attorney and/or tax specialist.
South Carolina	
South Dakota	South Dakota does not have legal counsel on staff and do not give any legal advice, the same as Louisiana and Montana
Tennessee	In Tennessee, Business Services has one staff attorney (myself). The filing officers are not permitted to provide legal advice, but can provide legal information describing (but not interpreting or applying) the statute/rules. As an attorney, I try to handle the trickier questions, but still limit the legal advice I provide to helping the filer get their form in a condition that we will accept. I will not help them make sure the form is otherwise legally effective, but merely acceptable for filing. All of us in the office tell the filer we are merely a ministerial department, and to contact their personal legal counsel if they ask us for legal advice beyond help with filing the form.

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	Do you have a legal staff customers can talk to or would you refer them to an attorney or other resource.
Texas	<p>Texas SOS has a legal staff but we do not give legal advice. We provide customers with information about what they could do but not what they should do and we assist the document examination teams in determining whether documents comply with the Business Organizations Code and how to communicate the deficiencies in the filing instrument if they do not comply.</p> <p>Recently, the legal staff and customer service representatives attended a presentation by Texas Access to Justice Commission staff which provided information about how to provide information without providing advice. We refer the customer to their attorney for advice particular to their circumstances. If they do not have an attorney, we provide the customer with the contact information for the Lawyer Referral Service for Central Texas who will assist them in obtaining an attorney as well as directing them to any applicable pro bono resources.</p> <p>Also all SOS promulgated business forms include this statement:</p> <p>The attached form is drafted to meet minimal statutory filing requirements pursuant to the relevant code provisions. This form and the information provided are not substitutes for the advice and services of an attorney and tax specialist.</p>
Utah	In Utah, we tell them the statutory requirements for filing...if they raise legal questions, we ask them to find a legal professional as we cannot advise on those issues.
Vermont	
Virginia	
Washington	In Washington State we are ministerial. Should a customer ask for legal advice we suggest they seek the help of an attorney or other qualified advisor.
West Virginia	
Wisconsin	Wisconsin is the same as Maine and Washington.
Wyoming	

Additional comments:

ILLINOIS:

Illinois addresses legal questions through our Administrative codes. For legal advice seek an Attorney.

TITLE 14: COMMERCE

SUBTITLE A: REGULATION OF BUSINESS

CHAPTER I: SECRETARY OF STATE

PART 150 BUSINESS CORPORATION ACT

SECTION 150.710 ADVICE TO THE PUBLIC

Section 150.710 Advice to the Public

The Department staff will not provide legal advice to any member of the public concerning the Act, or the best or better words or phrases to place in the forms provided by the Department for use under the Act.

(Source: Added at 17 Ill. Reg. 11571, effective July 15, 1993)

Full text of email:

Good Morning,

In Louisiana we cannot assist customers with any form of legal advice, ie. What type of entity is in their best interest to file, should they file a trade name or a trade/service mark and so on. We suggest they speak with an attorney.

We are wondering how other states handle legal questions. Do you have a legal staff customers can talk to or would you refer them to an attorney or other resource.

Thank you for your time,

Mandy Harlan
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