

Topic: Ownership  
 Question by: Kathy M. Sachs  
 Jurisdiction: Kansas  
 Date: October 14, 2014

Jurisdiction	Question(s)
	My question is, if your jurisdiction doesn't require ownership, do you take this type of amendment?
<b>Manitoba</b>	
<b>Corporations Canada</b>	
<b>Alabama</b>	
<b>Alaska</b>	
<b>Arizona</b>	In Arizona, we would accept such an amendment as long as it met the filing requirements for Articles of Amendment. We aren't sticklers for a reference to a particular article number, and we would consider the substance "extra" or "optional" information that the law here does not prevent them from including. That being said, our system does not reflect ownership interests or percentages.
<b>Arkansas</b>	
<b>California</b>	
<b>Colorado</b>	
<b>Connecticut</b>	
<b>Delaware</b>	
<b>District of Columbia</b>	<p>In DC we would file this information per customer's request.</p> <p>Although it is not something that is required by the statute it would fall under optional information.</p> <p>We get it quite a bit for LLCs that want to specify on records the ownership distribution between various members.</p> <p>In DC only professional corporations are required to provide the name and address of shareholder (true owner); on another side statute does not require for those shareholders to reveal their stake in the corporation.</p>

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<b>Florida</b>	If we have a phone number we will try to call and explain rather the sending it back without notice. If no phone and the only thing changing is the ownership, we do reject it.
<b>Georgia</b>	Georgia: We do not require ownership information; however, a customer can list almost anything they want within their articles. If our customers want to list ownership information within their articles and later want to change the ownership information, we would treat that as a regular amendment to their articles.
<b>Hawaii</b>	<p>In general, we will return amendments changing "ownership". A few of our initial registrations have included stockholder information and list of limited partners and we accept it as additional ministerial information. When we contact the filer, we will point out information that is not required and some will remove it.</p> <p>As long as the documents meet our statutes requirements, we will file it and only some of the data will be entered into our system.</p> <p>We do not accept By-Laws, operating agreements, partnership agreements and other documents not required to be filed.</p>
<b>Idaho</b>	
<b>Illinois</b>	
<b>Indiana</b>	Indiana is the same as Ohio.
<b>Iowa</b>	
<b>Kansas</b>	
<b>Kentucky</b>	
<b>Louisiana</b>	Louisiana is the same as Georgia.
<b>Maine</b>	<p>Maine encounter's this from time to time. We explain to the filer that this information is not required as part of the Articles and that we don't suggest they provide it since they would be required to amend if that information changes in the future. Since our office is ministerial, we explain what is required and what isn't required. From time to time, the filer is adamant that we file the information, so we do. It is up to the filer to decide what they want to make part of their public document.</p> <p>We reach out to the filer to explain that such isn't required and that we are sending back to them.</p>
<b>Maryland</b>	
<b>Massachusetts</b>	

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<b>Michigan</b>	<p>In Michigan we don't require this information, nor do we store it anywhere in our system. If the customer chooses to include the information in the amendment we would still file the document; however, it would be their responsibility to amend again if that information changes in the future.</p> <p>We would return any operating agreements or non-essential documents submitted to our office.</p>
<b>Minnesota</b>	
<b>Mississippi</b>	
<b>Missouri</b>	
<b>Montana</b>	<p>That information that isn't required by Montana statute, but still constitutes part of the operation of the company may be filed as an "informational" amendment and added to the file of the company. The information isn't listed on the database, but is included in their file.</p> <p>If they send us bylaws or ownership agreements or share distribution lists or include it with their articles, we reject it back to them and let them know they can file it as an amendment, but isn't required so they can maintain that information in their corporate records instead.</p> <p>If they return the filing as an amendment and pay the filing fee, we add it to their file.</p>
<b>Nebraska</b>	
<b>Nevada</b>	If part of the articles or amending a specific article, we will accept, but have no requirement for ownership information and therefore would not reflect it anywhere in our databases. If a separate doc, we will file the articles and return the unrelated documents such as bylaws and operating agreements as we do not add these to the public record.
<b>New Hampshire</b>	
<b>New Jersey</b>	
<b>New Mexico</b>	
<b>New York</b>	
<b>North Carolina</b>	North Carolina doesn't file this type of information. We tell the customer that it should be kept in the regular minutes of the corporation with changes made to their By-laws if needed. Basically the same for the Operating Agreement for LLCs.
<b>North Dakota</b>	While it is a little odd, North Dakota would file the amendment which would have no effect on the data that is indexed in our office.

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<b>Ohio</b>	In Ohio, this information is not required and we would not enter it into our database, but this is not a reason we would reject a filing. If a customer submits a document that lists ownership or other information that is not required by our office, we will accept the filing but it won't change anything on the record. If a limited liability company submits an operating agreement we will image it with the Articles of Organization even though it is not required. I have noticed an increase of companies filing ownership information with our office because the banks are asking for this information and telling customers that it must be filed with our office.
<b>Oklahoma</b>	
<b>Oregon</b>	
<b>Pennsylvania</b>	
<b>Rhode Island</b>	
<b>South Carolina</b>	
<b>South Dakota</b>	
<b>Tennessee</b>	See additional comments below
<b>Texas</b>	
<b>Utah</b>	Utah does not keep operating agreements nor by-laws or ownership information
<b>Vermont</b>	
<b>Virginia</b>	Please see additional comments below
<b>Washington</b>	
<b>West Virginia</b>	
<b>Wisconsin</b>	
<b>Wyoming</b>	

**Additional comments:**

## **NOVA SCOTIA:**

In Nova Scotia, we certainly do not require partner/ member/ shareholder/ beneficial owner information be filed with the Registry of Joint Stock Companies. If someone were to file a shareholders' agreement, we would certainly return it to them. However, if somewhere within the Memorandum of Association or Articles of Association of a company, or amendments to these, or in special resolutions of shareholders, reference was made to shareholdings, we would not send them back. They are not data elements that we would record/track., but if the document were filed, and a copy requested, we would provide it as a copy of what is on file with our office.

I believe operating agreements are more common in the LLC context, which we do not form, so that is not a document we ordinarily see to return.

## **VIRGINIA:**

Greetings from Virginia! These submissions are rejected and returned with a letter explaining that this information is customarily maintained in the corporation's/company's internal documents, which are not filed in our office. If it is resubmitted, which is rare, we would file it.

After a review our notes on this subject, Virginia supplements its response of why we resist the filing of these submissions.

1. Our Code, and I believe the Model Business Corporation Act (Section 2.02), does not authorize the inclusion of shareholder information in the articles of incorporation as it is not related to the management of the business and affairs of the corporation, nor it a provision required to be set forth (or normally found) in the bylaws. See Section 6.21 of the Model Business Corporation Act, which provides that the power to issue shares resides with the board of directors, whose actions are customarily memorialized in minutes and consents.
2. Filing this information allows a person to obtain a certified copy of the filing, giving rise to an implication that the information is correct. However, we would not be willing to issue a certificate of fact that this information is correct, since placing the information on our records does not make it so. This is beyond the scope of our knowledge.
3. The case for rejecting these submissions for LLCs is not as strong, as our Code authorizes the articles to include provisions permitted to be set forth in an operating agreement. Nonetheless, paragraph 2, above, is still valid.

It is our perception that these submissions, generally, are tendered by uninformed customers, who find it easier to prepare a public document than internal company record. Accordingly, we have concluded that our reject-first policy is in the customer's best interests.

**TENNESSEE:**

In Tennessee, our statutes do not require any ownership information to be disclosed (even LLCs). As long as the Articles of Amendment have the statutorily required information, any additional optional information contained within or included as an attachment would not result in a rejection. In Tennessee we scan everything that is in the envelope. We then classify each page as either a required document that would be reproduced in a generic copy request, or "correspondence" which would only be provided in response to a subpoena or official public records act request.

Here are the required elements of a corporation's Articles of Amendment in Tennessee:

(1) The name of the corporation;

(2) The text of each amendment adopted;

(3) If an amendment provides for an exchange, reclassification or cancellation of issued shares, provisions for implementing such amendment if not contained in the amendment itself;

(4) The date of each amendment's adoption;

(5) If an amendment was duly adopted by the incorporators or board of directors without shareholder action, a statement to that effect and that shareholder action was not required; and

(6) If an amendment was duly adopted by the shareholders, a statement to that effect.

**Full text of email:**

We often discuss that we are just ministerial. That's easy to understand in UCC, more difficult in Business Services.

Kansas statutes don't require filings to list ownership. We file officer/directors, member/manager, etc.; not ownership.

Customers sometimes want to file amendments to change the "ownership".

For example:

"change ownership to reflect Kathy Sachs 51% - Dave Sachs 49%. I don't think this is relevant, but rarely do the original articles even mention ownership so the proposed amendment isn't even logical.

On the one hand, we are ministerial, just file the amendment.

On the other hand, we return bylaws, operating agreements, and other non-essential information when they arrive with the articles of incorporation.

My question is, if your jurisdiction doesn't require ownership, do you take this type of amendment?

KATHY M. SACHS | Business Services

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