

(c) What technical or operational problems do ignition interlock devices present and how can these problems best be resolved?

(d) What process and criteria should the state adopt to certify ignition interlock devices?

(e) Who should bear the responsibility for paying for the installation of ignition interlock devices?

Sec. 19. APPROPRIATION.

\$91,000 is appropriated to the commissioner of public safety for the purposes of sections 1 to 7: \$68,100 is from the highway user tax distribution fund and \$22,900 is from the trunk highway fund.

Sec. 20. EFFECTIVE DATE.

Sections 1 to 8 and sections 16 and 17 are effective August 1, 1988, and apply to violations committed on or after that date.

Approved April 27, 1988

CHAPTER 682—S.F.No. 1788

An act relating to the office of the secretary of state; providing for the simplification of various filings with that office; eliminating certain filings; eliminating the requirement that documents be notarized, verified, or acknowledged; reducing the number of signatures required; setting fees for copies of documents filed with the office of the secretary of state; permitting the correction of documents; setting fees for various filings; allowing the annual registration to fulfill the requirement that an active status report be filed; conforming the business corporation act to the uniform fraudulent conveyances act; increasing the penalties for failure to file an assumed business name; changing the time period during which audits of legal newspapers may occur; amending Minnesota Statutes 1986, sections 5.12; 300.025; 300.49; 302A.115, subdivisions 1 and 7; 302A.551, subdivision 3; 302A.821, subdivision 1; 303.06; 303.10, subdivision 2; 303.11; 303.14, subdivisions 1 and 3; 303.16, subdivision 3; and by adding a subdivision; 306.70; 306.74; 308.06; 308.14, subdivisions 2 and 4; 308.15, subdivisions 1 and 4; 308.59; 317.04, subdivision 3; 317.08, subdivision 1; 317.27, subdivisions 1 and 5; 317.33; 317.35; 317.45, subdivision 4; 318.02, subdivision 1; 322A.12; 322A.14; 322A.73; 322A.74; 333.01; 333.055, subdivisions 1 and 4; 333.06; 333.20, subdivision 2; 333.22, subdivision 2; 333.23; Minnesota Statutes 1987 Supplement, sections 302A.011, subdivision 11; 302A.139; 302A.615, subdivision 1; 308.58; subdivision 2; 322A.70; and 331A.02, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 5.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1986, section 5.12, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

5.12 CERTIFICATE; CERTIFIED COPY OF DOCUMENT; FEE.

The secretary of state shall charge a fee of \$5 for each certificate or certification of a copy of any document filed in the office of the secretary of state. The secretary of state shall charge a fee of \$3 for a copy of an original filing of a corporation, limited partnership, trade or service mark, or for the complete record of a certificate of assumed name. The secretary of state shall charge a fee of \$3, for a copy of any or all subsequent filings of a corporation, limited partnership or trade or service mark. The secretary of state shall charge a fee of \$1 per page for copies of other non-uniform commercial code documents filed with the secretary of state.

Sec. 2. [5.15] ACKNOWLEDGMENT OR NOTARIZATION NOT REQUIRED ON DOCUMENTS SUBMITTED TO THE SECRETARY OF STATE; PENALTIES OF PERJURY IMPOSED FOR FALSE OR UNAUTHORIZED SIGNATURES.

No document submitted to the office of the secretary of state shall be required to be notarized. Signing a document submitted to the secretary of state constitutes "acknowledgment" as defined in section 358.41, clause (2), and "verification upon oath or affirmation" as defined in section 358.41, clause (3). A person who signs a document submitted to the secretary of state without authority to sign that document or who signs the document knowing that the document is false in any material respect is subject to the penalties of perjury set forth in section 609.48.

Sec. 3. [5.16] CORRECTION OF DOCUMENTS.

Subdivision 1. PROCEDURE TO CORRECT INACCURATE OR DEFECTIVE INSTRUMENTS. Whenever an instrument authorized to be filed with the secretary of state has been filed and is an inaccurate record of the action referred to in the instrument, contains an inaccurate or erroneous statement, or was defectively or erroneously executed, sealed, acknowledged, or verified, the instrument may be corrected by articles of correction. Articles of correction must be signed by the person who executed the original instrument or by a person authorized to sign on behalf of that person. In the case of an entity other than a natural person, the articles of correction must be signed by an authorized person.

Subd. 2. ARTICLES OF CORRECTION. The articles of correction must:

- (1) set forth the name of the person or entity who filed the instrument;
- (2) identify the instrument to be corrected by description and by the date of its filing with the secretary of state;
- (3) identify the inaccuracy, error, or defect to be corrected; and
- (4) set forth a statement in corrected form of the portion of the instrument to be corrected.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. FILING ARTICLES OF CORRECTION. The articles of correction shall be delivered to the secretary of state. If the secretary of state finds that the articles of correction conform to law, the secretary of state shall, when all fees have been paid as required by law:

(1) endorse on the articles of correction the word "filed" and the month, day, and year that the articles are filed; and

(2) file and record the document in the office of the secretary of state.

Subd. 4. EFFECT OF FILING ARTICLES OF CORRECTION. After articles of correction have been filed and recorded in the office of the secretary of state, the instrument as corrected is considered to have been filed on the date the original instrument was filed; except that as to persons adversely affected by the correction, the instrument as corrected is considered to have been filed on the date the articles of correction were filed. A certificate issued by the secretary of state before an instrument is corrected, with respect to the effect of filing the original instrument, is considered to be applicable to the instrument as corrected as of the date the instrument as corrected is considered to have been filed under this section.

Subd. 5. FEES. The secretary of state shall collect a fee of \$25 for filing articles of correction.

Sec. 4. Minnesota Statutes 1986, section 300.025, is amended to read:

300.025 ORGANIZATION OF FINANCIAL CORPORATIONS.

Three or more persons may form a corporation for any of the purposes specified in section 47.12 by applying to the department of commerce and complying with all applicable organizational requirements and the conditions set out in clauses (1) to (7). However, no corporation may be formed under this section if it may be formed under the Minnesota business corporation act. The incorporators must subscribe ~~and acknowledge~~ a certificate specifying:

(1) the corporation's name, which must distinguish it from all other corporations authorized to do business in this state, and must contain the word "company," "corporation," "bank," "association," or "incorporated";

(2) the general nature of the corporation's business and its principal place of business;

(3) the period of its duration, if limited;

(4) the names and places of residence of the incorporators;

(5) the board in which the management of the corporation will be vested, the date of the annual meeting at which it will be elected, and the names and addresses of the board members until the first election, a majority of whom must always be residents of this state;

New language is indicated by underline, deletions by ~~strikeout~~.

(6) the amount of capital stock, if any, how the capital stock is to be paid in, the number of shares into which it is to be divided, and the par value of each share; and, if there is to be more than one class, a description and the terms of issue of each class, and the method of voting on each class; and

(7) the highest amount of indebtedness or liability to which the corporation will at any time be subject.

The certificate may contain any other lawful provision defining and regulating the powers and business of the corporation, its officers, directors, trustees, members, and stockholders. However, a corporation subject to sections 48.27 and 51A.22, subdivision 2, may show its highest amount of indebtedness to be 30 times the amount of its capital and actual surplus.

Sec. 5. Minnesota Statutes 1986, section 300.49, is amended to read:

300.49 FILING FEES.

Subdivision 1. ~~PAID TO STATE TREASURER~~ SECRETARY OF STATE. Domestic corporations must pay to the ~~state treasurer~~ secretary of state the following fees:

(1) for filing articles of incorporation, \$70 for the first \$25,000 or fraction of that amount of the par value of its authorized shares, and \$1.25 for each additional \$1,000 or fraction of that amount \$100;

(2) for filing ~~another~~ any instrument required or permitted by sections 300.01 to 300.68, \$15 \$25;

(3) for filing an amendment of articles of incorporation increasing the authorized number of shares, or the par value of shares previously authorized, or both, \$1.25 for each \$1,000 or fraction of that amount, of the increase for a merger, an additional fee of \$25.

Subd. 2. ~~VALUE OF SHARES FIXED~~. For the sole purpose of determining the fees prescribed by subdivision 1, shares without par value have a par value of \$10 each, except as otherwise provided in this subdivision. If the shares are entitled to priority over other shares upon liquidation, the involuntary liquidation price stated in the articles of incorporation is the par value. If the capital stock is reduced pursuant to section 300.39, shares without par value must be computed at the value, at the time of filing the amendment to the articles of incorporation, shown by a verified statement of assets and liabilities subscribed by the president and the secretary of the corporation.

Subd. 3. ~~EXCEPTIONS~~. This section does not apply to cooperative associations or corporations organized without capital stock and not for pecuniary profit.

Sec. 6. Minnesota Statutes 1987 Supplement, section 302A.011, subdivision 11, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 11. **FILED WITH THE SECRETARY OF STATE.** "Filed with the secretary of state" means that an original of a document meeting the applicable requirements of this chapter, signed, ~~and acknowledged or verified in the manner provided in chapter 358,~~ and accompanied by a filing fee of \$25, has been delivered to the secretary of state of this state. The secretary of state shall endorse on the original the word "Filed" and the month, day, year, and time of filing, record the document in the office of the secretary of state, and return the document to the person who delivered it for filing.

Sec. 7. Minnesota Statutes 1986, section 302A.115, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENTS; PROHIBITIONS.** The corporate name:

(a) Shall be in the English language or in any other language expressed in English letters or characters;

(b) Shall contain the word "corporation," "incorporated," or "limited," or shall contain an abbreviation of one or more of these words, or the word "company" or the abbreviation "Co." if that word or abbreviation is not immediately preceded by the word "and" or the character "&;

(c) Shall not contain a word or phrase that indicates or implies that it is incorporated for a purpose other than ~~one or more~~ a legal business purposes for which a corporation may be incorporated under this chapter purpose;

(d) Shall not be the same as, or deceptively similar to, the name of a domestic corporation or limited partnership, or a foreign corporation or limited partnership authorized or registered to do business in this state, or a name the right to which is, at the time of incorporation, reserved or provided for in sections 302A.117, 322A.03, or 333.001 to 333.54, unless there is filed with the articles one of the following:

(1) The written consent of the domestic corporation or limited partnership or foreign corporation or limited partnership authorized or registered to do business in this state or the holder of a reserved name or a name filed by or registered with the secretary of state under sections 333.001 to 333.54 having the same or a deceptively similar name;

(2) A certified copy of a final decree of a court in this state establishing the prior right of the applicant to the use of the name in this state; or

(3) The applicant's affidavit that the corporation or limited partnership with the same or deceptively similar name has been incorporated or on file in this state for at least three years prior to the affidavit, if it is a domestic corporation or limited partnership, or has been authorized or registered to do business in this state for at least three years prior to the affidavit, if it is a foreign corporation or limited partnership, or that the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 filed or registered that

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name at least three years prior to the affidavit, and has not during the three year period filed any document with the secretary of state; that the applicant has mailed written notice to the corporation or limited partnership or the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 by certified mail, return receipt requested, properly addressed to the registered office of the corporation or in care of the agent of the limited partnership, or the address of the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54, shown in the records of the secretary of state, that the applicant intends to use the same or deceptively similar name and the notice has been returned to the applicant as undeliverable to the addressee corporation or limited partnership or holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54; that the applicant, after diligent inquiry, has been unable to find any telephone listing for the corporation or limited partnership with the same or deceptively similar name in the county in which is located the registered office of the corporation shown in the records of the secretary of state or has been unable to find any telephone listing for the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 in the county in which is located the address of the holder shown in the records of the secretary of state; and that the applicant has no knowledge that the corporation or limited partnership or holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 is currently engaged in business in this state.

Sec. 8. Minnesota Statutes 1986, section 302A.115, subdivision 7, is amended to read:

Subd. 7. **LOST NAMES; USE BY OTHERS.** Each corporation formed before July 1, 1979 which has not filed the active status report required by Minnesota Statutes 1982, section 301.511 or an annual registration under section 302A.821 and which has not elected to become governed by this chapter before January 1, 1984 shall file ~~that report with the secretary of state accompanied by a filing fee of \$10~~ the annual registration under section 302A.821.

Each corporation which has not filed that report ~~on August 1, 1983~~ or registration loses its right to the exclusive use of its name. The corporation may reacquire the right to use that name by filing the report ~~and paying the fee required by this subdivision~~ registration under section 302A.821, unless the name has been adopted for use or reserved by another person, in which case the ~~report~~ registration will be rejected unless the ~~report can be accepted~~ registration is accompanied by a consent, court order or affidavit pursuant to subdivision 1, clause (d). A corporation which cannot reacquire the use of its corporate name shall adopt a new corporate name which complies with the provisions of this section.

Sec. 9. Minnesota Statutes 1987 Supplement, section 302A.139, is amended to read:

302A.139 ARTICLES OF AMENDMENT.

New language is indicated by underline, deletions by ~~strikeout~~.

When an amendment has been adopted, articles of amendment shall be prepared that contain:

(a) The name of the corporation;

(b) The amendment adopted;

~~(c) The date of the adoption of the amendment by the shareholders, or by the incorporators or the board where no shares have been issued; or the date of adoption of the amendment by the board if:~~

~~(1) the amendment merely restates the existing articles, as amended, and the amendment was not submitted to and approved by the shareholders, in which case the articles of amendment must contain With respect to an amendment restating the articles, a statement that the amendment restating the articles correctly sets forth without change the corresponding provisions of the articles as previously amended if the amendment was approved only by the board; or~~

~~(2) the amendment is to a statement establishing or fixing the rights and preferences of a class or series of shares before the issuance of shares of that class or series;~~

(d) If the amendment provides for but does not establish the manner for effecting an exchange, reclassification, or cancellation of issued shares, a statement of the manner in which it will be effected; and

~~(c) If the amendment restates the articles in their entirety, a statement that the restated articles supersede the original articles and all amendments to them. A statement that the amendment has been adopted pursuant to chapter 302A.~~

Sec. 10. Minnesota Statutes 1986, section 302A.551, subdivision 3, is amended to read:

Subd. 3. **EFFECT MEASURED.** (a) In the case of a distribution made by a corporation in connection with a purchase, redemption, or other acquisition of its shares, the effect of the distribution shall be measured as of the date on which money or other property is transferred, or indebtedness payable in installments or otherwise is incurred, by the corporation, or as of the date on which the shareholder ceases to be a shareholder of the corporation with respect to the shares, whichever is the earliest.

(b) The effect of any other distribution shall be measured as of the date of its authorization if payment occurs 120 days or less following the date of authorization, or as of the date of payment if payment occurs more than 120 days following the date of authorization.

(c) Indebtedness of a corporation incurred or issued in a distribution in accordance with this section to a shareholder who as a result of the transaction is no longer a shareholder is on a parity with the indebtedness of the corporation to its general unsecured creditors, except to the extent subordinated, agreed to,

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or secured by a pledge of any assets of the corporation or a related corporation, or subject to any other agreement between the corporation and the shareholder.

(d) Sections 302A.551 to 302A.559 supersede all other statutes of this state with respect to distributions, and the provisions of sections ~~513.20 to 513.32~~ 513.41 to 513.51 do not apply to distributions made by a corporation governed by this chapter.

Sec. 11. Minnesota Statutes 1987 Supplement, section 302A.615, subdivision 1, is amended to read:

Subdivision 1. **CONTENTS OF ARTICLES.** Upon receiving the approval required by section 302A.613, articles of merger or exchange shall be prepared that contain:

(a) The plan of merger or exchange; and

(b) ~~For each corporation, either:~~

(+) a statement that the plan has been approved by a ~~vote of the shareholders~~ each corporation pursuant to ~~section 302A.613, subdivision 2; or chapter 302A.~~

(2) ~~a statement that a vote of the shareholders is not required.~~

Sec. 12. Minnesota Statutes 1986, section 302A.821, subdivision 1, is amended to read:

Subdivision 1. **INFORMATION REQUIRED.** A domestic corporation shall ~~annually~~ once each calendar year file either (a) with the commissioner of revenue along with the return required by sections 290.37 and 290.974, or along with an affidavit that the corporation need not file a return under section 290.37, or (b) with the secretary of state, a registration containing:

(a) The name of the corporation;

(b) The address of its principal executive office;

(c) The address of its registered office;

(d) The state of incorporation;

(e) The former name and address of the corporation or its registered office, if changed since the corporation filed its previous return;

(f) The name of its registered agent, if any; and

(g) The name and business address of the officer or other person exercising the principal functions of the chief executive officer of the corporation.

Sec. 13. Minnesota Statutes 1986, section 303.06, is amended to read:

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303.06 APPLICATION FOR CERTIFICATE OF AUTHORITY.

Subdivision 1. **CONTENTS.** In order to procure a certificate of authority to transact business in this state, a foreign corporation shall make application therefor to the secretary of state, which application shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is organized;

(2) If the name of the corporation does not comply with section 303.05, then the name which it agrees to use in this state;

(3) ~~The date of its incorporation and the period of its duration;~~

(4) ~~The address of its principal office in the state or country under the laws of which it is organized;~~

(5) The address of its proposed registered office in this state and the name of its proposed registered agent in this state;

(6) ~~(4)~~ That it irrevocably consents to the service of process upon it as set forth in section 303.13, or any amendment thereto; and

(7) ~~The names and respective addresses of its directors and officers;~~

(8) ~~A statement of the aggregate number of shares which it shall have authority to issue, itemized by classes and series;~~

(9) ~~A statement of the aggregate number of its issued or allotted shares itemized by classes and series; and~~

(10) ~~(5)~~ A statement that the officers executing the application have been duly authorized so to do by the board of directors of the corporation.

Subd. 2. **FORMS.** Such application shall be made on forms prescribed and furnished by the secretary of state, and shall be executed, ~~acknowledged, and verified~~ by its president or a vice-president, ~~and by its secretary, or an assistant secretary,~~ and delivered to the secretary of state with authenticated copies of its articles a certificate of existence from the filing officer in the state, province, or country of incorporation.

Sec. 14. Minnesota Statutes 1986, section 303.10, subdivision 2, is amended to read:

Subd. 2. **CHANGE OF LOCATION AND ADDRESS; REVOCATION OF AGENT'S APPOINTMENT; NEW AGENT.** A foreign corporation may, from time to time, change the location and address of its registered office. It may revoke the appointment of a registered agent, provided it shall at the same time file an appointment of a new registered agent. It shall appoint a new registered agent in case of vacancy in the office, whether by death, resignation, or otherwise, or because of the disqualification or incapacity of its registered

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agent. Such changes may be made by filing in the office of the secretary of state a statement setting forth:

- (1) The name of the corporation;
- (2) The address of its registered office;
- (3) If the address of its registered office is to be changed, the address to which the registered office is to be changed;
- (4) The name of its then registered agent;
- (5) If its registered agent is to be changed, the name of its successor registered agent; and
- (6) That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed, ~~acknowledged, and verified~~ by its president ~~or a~~ vice-president, ~~and by its~~ secretary, ~~or an~~ assistant secretary.

Sec. 15. Minnesota Statutes 1986, section 303.11, is amended to read:

303.11 NOTICE OF NAME CHANGES, WHERE FILED.

Each foreign corporation authorized to transact business in this state, ~~when-
ever its articles of incorporation are amended, whenever its stated capital shall
be reduced, or whenever it shall be a party to a statutory merger or consolida-
tion, shall forthwith~~ shall, whenever it changes its name, dissolves, or merges
into another corporation, file in the office of the secretary of state a copy of such
~~amendment or articles of merger or consolidation, duly authenticated by the
proper officer of the state or country under the laws of which such corporation is
organized, or a copy of the instrument with reference to such reduction of stated
capital required to be filed or recorded in a public office in the state or country
under the laws of which such corporation is organized, duly authenticated by the
proper public officer, as the case may be~~ a certificate to that effect authenticated
by the proper officer of the state or country under the laws of which the corpora-
tion is organized.

Sec. 16. Minnesota Statutes 1986, section 303.14, subdivision 1, is amended to read:

Subdivision 1. FILED WITH SECRETARY OF STATE; CONTENTS.
Between January first and April first, in each year, every foreign corporation which holds a certificate of authority shall make and file with the secretary of state a report for the previous calendar year, setting forth:

- (1) the name of the corporation and the state or country under the laws of which it is organized;
- (2) if the name of the corporation does not end with the word "Corpora-

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tion" or the word "Incorporated," or the abbreviation "Inc.," or does not contain the word "Company" or the abbreviation "Co." not immediately preceded by the word "and" or the character "&," then the name of the corporation with the word or abbreviation which it has agreed to add thereto for use in this state;

(3) the date of its incorporation and the period of its duration;

(4) the address of its principal office in the state or country under the laws of which it is organized;

(5) the address of its registered office in this state and the name of its registered agent at such address;

(6) the names and respective addresses of its directors and officers;

(7) (4) additional information necessary or appropriate to enable the secretary of state to determine the additional license fee, if any, payable by the corporation;

(8) (5) a statement of the corporate taxable net income as stated in its Minnesota corporate income tax return that was due in the previous year; and

(9) (6) the fee required by section 303.07, subdivision 2. This fee shall be submitted with the annual report.

Sec. 17. Minnesota Statutes 1986, section 303.14, subdivision 3, is amended to read:

Subd. 3. **FORMS.** The annual report shall be made on forms prescribed by the secretary of state, one part setting forth the facts required by subdivision 1, clauses (1) to (6) (3), and the other part the facts required by subdivision 1, clauses (7) (4), (8) (5), and (9) (6). The report shall be executed, ~~acknowledged and verified~~ by the president or, vice-president and by the, treasurer, an assistant treasurer, secretary, or an assistant secretary of the corporation. If the corporation is in the hands of a receiver or trustee, the report shall be executed on behalf of the corporation and verified by the receiver or trustee.

Sec. 18. Minnesota Statutes 1986, section 303.16, subdivision 3, is amended to read:

Subd. 3. **EXECUTION OF APPLICATION.** The application for withdrawal shall be executed; ~~acknowledged and verified~~ on behalf of the corporation by its president or, vice-president, and by its secretary, or an assistant secretary, or, if the corporation is in the hands of a receiver or trustee, by such receiver or trustee.

Sec. 19. Minnesota Statutes 1986, section 303.16, is amended by adding a subdivision to read:

Subd. 5. WITHDRAWAL THROUGH MERGER OR DISSOLUTION. The filing with the secretary of state by the corporation of a certificate of dissolution, or a certificate of merger if the corporation is not the surviving corporation from the proper officer of the state or country under the laws of

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which the corporation is organized constitutes a valid application of withdrawal and the authority of the corporation to transact business in this state shall cease upon filing of the certificate.

Sec. 20. Minnesota Statutes 1986, section 306.70, is amended to read:

306.70 CERTIFICATE OF AMENDED ARTICLES TO BE RECORDED.

The board of trustees or other governing body of such religious corporation shall cause such resolution to be embraced in a certificate duly executed and acknowledged by its president and secretary or other presiding and recording officers under the corporate seal of the corporation, which certificate shall be recorded in the office of the county recorder of the county in which the cemetery of such association is located ~~and in the office of the secretary of state.~~

Sec. 21. Minnesota Statutes 1986, section 306.74, is amended to read:

306.74 CERTIFICATE OF AMENDMENT.

The trustees shall cause such resolution to be embraced in a certificate duly executed and acknowledged by its president and secretary or other presiding and recording officers, under the corporate seal of the corporation, which certificate shall be recorded in the office of the county recorder of the county in which the cemetery of the association is located ~~and in the office of the secretary of state.~~

Sec. 22. Minnesota Statutes 1986, section 308.06, is amended to read:

308.06 INCORPORATION, CONTENTS OF ARTICLES, FILING AND RECORDATION.

Subdivision 1. A cooperative association may be organized under the provisions of sections 308.05 to 308.18 by ~~five~~ one or more incorporators, who may act for themselves as individuals or as the agents of other cooperative associations, whether organized under sections 308.05 to 308.18 or otherwise.

Subd. 2. The incorporators of a cooperative association under sections 308.05 to 308.18 shall sign ~~and acknowledge~~ written articles of incorporation, specifying (1) the name of the association, its purpose, and the principal place of transacting its business. Such name shall distinguish it from all other corporations, domestic or foreign assumed names, trade or service marks, limited partnerships or reserved corporate or limited partnership names, pursuant to the standards set forth in section 302A.115, doing business in the state and shall be preserved to it during its corporate existence; (2) the period of its duration, which may be limited or perpetual; (3) if organized on a capital stock basis the total authorized number of shares and the par value of each share; a description of the classes of shares, if the shares are to be classified; a statement of the number of shares in each class and relative rights, preferences, and restrictions granted to or imposed upon the shares of each class, and a provision that only common stockholders shall have voting power; (4) that individuals owning common stock shall be restricted to one vote in the affairs of the association; (5) that

New language is indicated by underline, deletions by ~~strikeout~~.

shares of stock shall be transferable only with the approval of the board of directors of the association; (6) that dividends upon capital stock of the association shall not exceed eight percent annually; (7) the names, post office addresses and terms of office of the first directors; and (8) that net income in excess of dividends and additions to reserves shall be distributed on the basis of patronage, and that the records of the association may show the interest of patrons, stockholders of any classes and members in the reserves. The articles of incorporation shall always contain the provisions above required and may contain any other lawful provision; except that the names, post office addresses and terms of offices of the first directors may be omitted after their successors have been elected by the stockholders or when the articles are amended in their entirety. Cooperative associations may be incorporated for any of the purposes for which an association may also be formed upon a membership basis and without capital stock. Such associations organized on a capital stock basis may be organized, and shall have the same powers and authority as are conferred upon such associations, and the articles of incorporation of any such nonstock associations shall contain the provisions required in the articles of incorporation of an association organized upon a capital stock basis whenever the same are applicable to an association organized upon a membership basis. Except as provided for by section 308.07, subdivision 4, no member of an association organized upon a membership basis shall have more than one vote, and a membership shall be transferable only with the consent and approval of the board of directors of the association. Holders of shares of common stock which entitle the holder thereof to vote, shall be deemed to be members of associations organized on a capital stock basis. As used in sections 308.05 to 308.18, "stockholder," unless otherwise specified, means and includes only a holder of a share of common stock which entitles the holder thereof to vote.

Subd. 3. Cooperative associations organized under or subject to the provisions hereof shall be subject to the provisions of chapter 80A, except as specifically provided in section 80A.15.

Subd. 4. The original articles of incorporation; ~~or a certified copy of them; verified by the affidavits of two of the incorporators;~~ shall be filed with the secretary of state and a copy; ~~certified and verified as above required;~~ shall be recorded in the office of the county recorder of the county in which the principal place of business of the association is located. For filing the articles of incorporation; ~~or amendments to them;~~ with the secretary of state a fee of \$15 ~~\$60~~ shall be paid to the secretary of state. For filing other documents required by this chapter with the secretary of state, a fee of \$25 must be paid to the secretary of state. An additional fee of \$25 must be paid to the secretary of state for filing a merger.

Sec. 23. Minnesota Statutes 1986, section 308.14, subdivision 2, is amended to read:

Subd. 2. Voluntary proceedings for dissolution of any association organized under or subject to the provisions of sections 308.05 to 308.18 or any

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other law of Minnesota relating to the organization of cooperative associations may be instituted whenever a resolution therefor is adopted by two-thirds of the votes cast thereon at a meeting duly called for that purpose, at which a quorum is present. The resolution may provide that the affairs of the association shall be wound up out of court, in which case the resolution shall designate a trustee or trustees to conduct the winding up, and may provide a method for filling vacancies in the office of trustees; and may provide for the election of a president and secretary of the trustees from their own number, but such appointment shall not be operative until a certificate setting forth the resolution and the manner of adoption thereof, signed ~~and acknowledged~~ by the president ~~or~~ vice-president ~~and by the~~ secretary, or assistant secretary of the association, shall be filed for record with the secretary of state. If the association's current articles of incorporation or certificate of incorporation and amendments are not on file with the secretary of state, the certificate of voluntary dissolution shall be filed with the public officer having custody of the current articles of incorporation or certificate of incorporation and amendments. If the association's current articles of incorporation or certificate of incorporation and amendments are not on file with a public officer, the certificate of voluntary dissolution shall be filed with the public officer with whom the articles or certificate should have been filed pursuant to law. If a vacancy occurs in the office of trustee, it may be filled by resolution adopted by a majority of the voting power represented at a meeting of stockholders or members. The meeting may be called by the remaining trustee or trustees, if any, and if none, then by any stockholder or member. Unless the resolution to dissolve otherwise provides, the trustee or trustees may be removed with or without cause by the vote of a majority of the voting power at a meeting called for that purpose. The resolution to dissolve may provide that the affairs of the corporation shall be wound up under the supervision of the court, in which case the resolution shall authorize certain directors or stockholders to sign and present a petition to the court praying that the corporation be wound up and dissolved under the supervision of the court. Where a corporation is being wound up and dissolved out of court, the trustee, or if there be more than one then a majority of the trustees, may by petition apply to the court for a receiver and to have the proceedings continued under the supervision of the court, and thereafter the proceedings shall continue as if originally instituted subject to the supervision of the court.

Sec. 24. Minnesota Statutes 1986, section 308.14, subdivision 4, is amended to read:

Subd. 4. When an association has been completely wound up, the court, if the proceeding is subject to the supervision of the courts, shall make an order adjudging the association to be dissolved; and if the proceeding is out of court, the trustee, or trustees, or the president or secretary of the trustees, if any, or the attorney of the trustee or trustees, if the attorney or officer makes an affidavit of acting as such, shall sign ~~and acknowledge~~ a certificate stating that the association has been completely wound up and is dissolved. The provisions of this subdivision as herein amended shall apply to all associations who heretofore, or hereafter shall have filed for record a certificate of dissolution as provided in subdivision 2.

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Sec. 25. Minnesota Statutes 1986, section 308.15, subdivision 1, is amended to read:

Subdivision 1. The articles of incorporation of any association organized under sections 308.05 to 308.18 or which may elect to come under the provisions of those sections may be amended in the following manner: The board of directors, by majority vote of its members may pass a resolution setting forth the full text of the proposed amendment. Upon such action by the board of directors, notice shall be mailed to each and every stockholder containing the full text of the proposed amendment - and a mail ballot attached thereto if the board of directors has provided for a mail ballot in its resolution. Such notice shall also designate the time and place of the meeting at which such proposed amendment shall be considered and voted upon, in the same manner as elsewhere provided in those sections. An association having in excess of 200 stockholders or members may publish such notice and ballot if required in the manner provided for in section 308.09, subdivision 1. If a quorum of the stockholders is registered as being present or represented by mail vote at such meeting, such proposed amendment shall be adopted if approved by a majority of the votes cast. After an amendment has been adopted by the stockholders, articles of amendment setting forth the amendment and the manner of adoption thereof shall be signed ~~and acknowledged~~ by the president ~~or~~ vice-president ~~and~~ by the ~~2~~ secretary, or assistant secretary, and filed in the office of the secretary of state and recorded in the office of the county recorder of the county of its principal place of business.

Sec. 26. Minnesota Statutes 1986, section 308.15, subdivision 4, is amended to read:

Subd. 4. If otherwise lawful, any two or more associations organized under or subject to the provisions of sections 308.05 to 308.18, or any other law of Minnesota relating to the organization of cooperative associations, may merge or consolidate with each other, or with one or more associations incorporated under the laws of another state relating to organization of cooperative associations, by complying with the provisions of this subdivision or under the law of the state where the surviving or new association will exist. Before an association may merge or consolidate with any other association, a written plan of merger or consolidation shall be prepared by the board or by a committee selected by the board or the members or stockholders for that purpose. Such plan shall set forth all the terms of the merger or consolidation and the proposed effect thereof on all members or stockholders of the association. In case of consolidation, the plan shall also contain the articles of the new association. Notice shall be mailed to each and every stockholder or member containing the full text of the plan. Such notice shall also designate the time and place of the meeting at which such plan shall be considered and voted upon, in the same manner as elsewhere provided in these sections. An association having in excess of 200 stockholders or members may publish such notice in the manner provided for in section 308.09, subdivision 1. If a quorum of the stockholders or members is registered as being present or represented by mail vote at such meeting, the plan shall be adopted if approved by two-thirds of the votes cast.

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After the plan has been adopted by the stockholders or members, articles of merger or consolidation setting forth the plan and the manner of adoption thereof shall be signed ~~and acknowledged~~ by the president ~~or~~ vice-president ~~and~~ by the ~~the~~ secretary, or assistant secretary of each association merging or consolidating and shall be approved by the attorney general and filed in the office of the secretary of state and recorded in the office of the county recorder of each county where each merging or consolidating association has its principal place of business. Unless otherwise specified in the plan, the merger or consolidation shall be effective when said articles are filed in the office of the secretary of state.

After the effective date, the associations, which are parties to the plan become a single association. In the case of a merger, the surviving association is that association so designated in the plan. In the case of a consolidation, the new association is the association provided for in the plan. The separate existence of all associations which are parties to the plan, except the surviving or new association, then ceases.

The surviving or new association possesses all the rights and all the property of each of the individual associations, and is responsible for all their obligations. Title to any property is vested in the surviving or new association with no reversion or impairment thereof caused by the merger or consolidation. No right of any creditor may be impaired by the merger or consolidation without the creditor's consent.

The articles of the surviving association are deemed amended to the extent provided in the plan of merger.

Sec. 27. Minnesota Statutes 1987 Supplement, section 308.58, subdivision 2, is amended to read:

Subd. 2. **WHERE FILED; EVIDENCE.** The articles must be subscribed by the several incorporators ~~and acknowledged by one of them before an officer authorized by the law of this state to take and certify acknowledgment of deeds and conveyances~~; and shall be filed in the office of the secretary of state, and when so filed such incorporation shall be complete. The articles, or certified copies thereof, shall be received in all the courts of this state, and other places, as prima facie evidence of the facts contained therein and of the due incorporation of such association.

Sec. 28. Minnesota Statutes 1986, section 308.59, is amended to read:

308.59 AMENDMENT OF ARTICLES OF INCORPORATION.

The articles of incorporation may be altered or amended at any regular meeting of members or stockholders or at any special meeting called for that purpose where a quorum is registered as being present. An amendment must first be approved by two-thirds of the directors and a copy of the text of the proposed amendment shall be mailed to each member or stockholder not less than ten days prior to the meeting or published in the same manner as publica-

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tion of notice of meetings of members or stockholders, and the same must be approved by a vote representing a majority of the members or stockholders present at the meeting. After an amendment has been adopted by the stockholders, articles of amendment setting forth the amendment and the manner of adoption thereof shall be signed and acknowledged by the president or vice-president and by the secretary, or assistant secretary, and shall be filed in accordance with the provisions of original filing.

Sec. 29. Minnesota Statutes 1986, section 317.04, subdivision 3, is amended to read:

Subd. 3. **ELECTION TO ACCEPT.** (1) Whether or not a domestic corporation has elected to reject under subdivision 2, it may at any time accept and come under the provisions of sections 317.01 to 317.25 by adopting a resolution of acceptance by a majority vote of all the directors entitled to vote at a special meeting of the board of directors, notice having been duly given, and by certifying and filing the resolution in the manner prescribed by subdivision 2, clause (3), for effecting a rejection with the secretary of state. For filing a resolution of acceptance the secretary of state shall collect a fee of \$15 \$25.

(2) The election to accept sections 317.01 to 317.25 becomes effective upon the filing for record of a copy of the adopted resolution to accept, together with articles of incorporation and amendments thereto with the secretary of state.

Sec. 30. Minnesota Statutes 1986, section 317.08, subdivision 1, is amended to read:

Subdivision 1. **FORM.** The articles shall be expressed in the English language, and shall be signed by each of the incorporators, and acknowledged by at least one of them.

Sec. 31. Minnesota Statutes 1986, section 317.27, subdivision 1, is amended to read:

Subdivision 1. **EXTENT.** A domestic corporation may amend its articles in the manner prescribed by this section to include or omit any provisions which it could lawfully include or omit from the original articles at the time the amendment is made, or to extend its duration for a further definite time or perpetually. Any number of amendments may be submitted and voted upon at a single meeting.

A corporation may by action taken in the same manner as required for amendment of articles of incorporation adopt restated articles of incorporation consisting of the articles of incorporation as amended to date. Restated articles of incorporation may, but need not be, adopted in connection with an amendment to the articles of incorporation. Restated articles of incorporation shall contain all the statements required by this chapter to be included in original articles of incorporation except that: in lieu of setting forth the names and addresses of the first board of directors, the restated articles shall set forth the

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names and addresses of the directors at the time of the adoption of the restated articles; and no statement need be made with respect to the names and addresses of the incorporators. The certificate filed to accomplish any restated articles shall be entitled "Certificate of Restated Articles of Incorporation of (name of corporation)" ~~and shall contain a statement that the articles supersede and take the place of existing articles of incorporation.~~ When executed, filed and recorded in the manner prescribed in this section for articles of amendment the restated articles shall supersede and take the place of theretofore existing articles of incorporation and amendments thereto. The secretary of state upon request shall certify the articles as restated articles of incorporation.

Sec. 32. Minnesota Statutes 1986, section 317.27, subdivision 5, is amended to read:

Subd. 5. **AMENDMENTS; EXECUTION, FILING.** When an amendment has been adopted, the president ~~or~~ vice-president, ~~and the secretary,~~ or assistant secretary shall execute ~~and acknowledge~~ articles of amendment which shall set forth the amendment and the manner of its adoption. The articles of amendment shall be filed for record with the secretary of state. If the articles conform to law and the fees prescribed by section 317.67 have been paid, the secretary of state shall record the articles and the amendment becomes effective upon recording or upon such later date, or date and hour, not more than 31 days after recording, as may be specified in the amendment.

Before any amendment to articles of incorporation may be filed under this section, every corporation now subject to this chapter and every religious corporation which has not elected to accept sections 317.01 to 317.25 and which avails itself of sections 317.26 to 317.69 as provided in section 317.06, which is incorporated under a law which required articles of incorporation of the corporation or religious corporation and amendments of articles to be filed with a public office other than the secretary of state, shall file with the secretary of state a copy of all such articles and amendments certified as true, correct and complete by the public officer having custody of the original documents.

Sec. 33. Minnesota Statutes 1986, section 317.33, is amended to read:

317.33 AGREEMENT, CONTENTS.

(1) An agreement of merger or consolidation shall contain:

(a) the names of the domestic corporations proposing to merge or consolidate, and the name of the corporation into which they propose to merge or consolidate;

(b) the terms and conditions of the proposed merger or consolidation and the manner in which it will be effected;

(c) in case of merger, ~~the articles of the surviving corporation and~~ any amendments necessary or advisable to accomplish the purpose of the merger; and

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(d) in case of consolidation, with respect to the new corporation, the provisions required by section 317.08, subdivision 2, to be set out in the articles of incorporation.

(2) The agreement of merger or consolidation may contain any other provision deemed necessary or desirable.

Sec. 34. Minnesota Statutes 1986, section 317.35, is amended to read:

317.35 AGREEMENT, EXECUTION.

(1) Upon adoption of an agreement of merger or consolidation, the president ~~or a~~ vice-president, ~~and the secretary,~~ or ~~an~~ assistant secretary, of each constituent corporation shall execute ~~and acknowledge~~ the agreement.

(2) The persons who execute the agreement shall certify on the agreement that it was adopted in accordance with the provisions of this chapter and with the articles and bylaws of each constituent corporation and shall certify on the agreement the manner of adoption of such agreement.

(3) Sufficient copies of the agreement, certified as prescribed by clause (2), shall be furnished to enable the secretary of state to comply with the provisions of this chapter with respect to filing the agreement of merger or consolidation.

Sec. 35. Minnesota Statutes 1986, section 317.45, subdivision 4, is amended to read:

Subd. 4. **TERMINATION OF CORPORATE EXISTENCE.** When the corporation has been completely wound up, the liquidating receiver shall sign ~~and acknowledge~~ a certificate stating that the corporation has been completely wound up. When the liquidating receiver has filed that certificate and a copy of the court order appointing the liquidating receiver for record with the secretary of state, the corporate existence terminates.

Sec. 36. Minnesota Statutes 1986, section 318.02, subdivision 1, is amended to read:

Subdivision 1. The term "declaration of trust" as used in this section means the declaration of trust, business trust instrument, trust indenture, contract of custodianship, or other instrument pursuant to which such association is organized. Every such association organized after April 20, 1961, for the purpose of transacting business in this state shall, prior to transacting any business in this state, file in the office of the secretary of state a true and correct copy of the "declaration of trust" under which the association proposes to conduct its business; ~~which copy shall be sworn to, as being a true and correct copy, by the chair of the board of trustees of such association, or by one of the trustees of such association, or by one of the persons or parties to the "declaration of trust."~~ The said sworn statement copy shall also contain a statement that the true and correct copy of the "declaration of trust" is being filed in the office of the secretary of state of the state of Minnesota pursuant to this chapter, and shall

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also include the full name and street address of an agent of the business trust in this state. That agent shall be the agent for service of process which shall be made pursuant to the provisions of section 543.08. The "declaration of trust" may provide that the duration of such association shall be perpetual. Upon the filing of the copy of the "declaration of trust" and the payment of a filing fee of \$150 to the secretary of state, the secretary of state shall issue to such association, or to the trustees named in the said "declaration of trust," or to the persons or parties to the "declaration of trust," a certificate showing that such "declaration of trust" has been duly filed; whereupon, such association in its name shall be authorized to transact business in this state; provided that all other applicable laws have been complied with. The "declaration of trust" may be amended as provided in the "declaration of trust" or in any amendments thereto but a true and correct copy of all amendments to the "declaration of trust," ~~which copy shall be sworn to in like manner as provided above in filing a true and correct copy of the "declaration of trust,"~~ shall be filed in the office of the secretary of state upon the payment of a filing fee of \$50 to the secretary of state and all amendments shall become effective at the time of said filing. When such copy of the "declaration of trust" and any amendments thereto shall have been filed in the office of the secretary of state it shall constitute public notice as to the purposes and manner of the business to be engaged in by such association.

Sec. 37. Minnesota Statutes 1986, section 322A.12, is amended to read:

322A.12 AMENDMENT TO CERTIFICATE.

(a) A certificate of limited partnership is amended by filing a certificate of amendment thereto in the office of the secretary of state. The certificate shall set forth:

- (1) the name of the limited partnership; and
- (2) ~~the date of filing the certificate; and~~
- ~~(3)~~ the amendment to the certificate.

(b) Within 30 days after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of the event or events shall be filed:

- (1) the admission of a new general partner;
- (2) the withdrawal of a general partner; or
- (3) the continuation of the business under section 322A.63 after an event of withdrawal of a general partner.

(c) A general partner who becomes aware that any statement in a certificate of limited partnership was false when made or that any arrangements or other facts described have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate.

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(d) A certificate of limited partnership may be amended at any time for any other proper purpose the general partners determine.

(e) No person has any liability because an amendment to a certificate of limited partnership has not been filed to reflect the occurrence of any event referred to in subsection (b) if the amendment is filed within the 30-day period specified in subsection (b).

(f) A restated certificate of limited partnership may be executed and filed in the same manner as a certificate of amendment.

Sec. 38. Minnesota Statutes 1986, section 322A.14, is amended to read:

322A.14 EXECUTION OF CERTIFICATES.

(a) Each certificate required by sections 322A.11 to 322A.19 to be filed in the office of the secretary of state shall be executed in the following manner:

(1) an original certificate of limited partnership must be signed by ~~at least~~ one of the general partners;

(2) a certificate of amendment must be signed by ~~at least one of the general partner and by each other general partner designated in the certificate as a new general partner~~ partners; and

(3) a certificate of cancellation must be signed by ~~at least~~ one of the general partners.

(b) Any person may sign a certificate by an attorney-in-fact, but a power of attorney to sign a certificate relating to the admission of a general partner must specifically describe the admission.

(c) The execution of a certificate by a general partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

Sec. 39. Minnesota Statutes 1987 Supplement, section 322A.70, is amended to read:

322A.70 REGISTRATION.

Before transacting business in this state, a foreign limited partnership shall register with the secretary of state. In order to register, a foreign limited partnership shall submit to the secretary of state, in duplicate, an application for registration as a foreign limited partnership, signed ~~and sworn to~~ by a general partner and setting forth:

(1) the name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state;

(2) the state and date of its formation;

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(3) the name and address of any the agent for service of process on the foreign limited partnership ~~whom the foreign limited partnership elects to appoint~~; the agent must be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in, this state;

(4) a statement that the secretary of state is appointed the agent of the foreign limited partnership for service of process if ~~no agent has been appointed under paragraph (3) or, if appointed,~~ the appointed agent's authority has been revoked or if the agent cannot be found or served with the exercise of reasonable diligence;

(5) ~~the address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required,~~ of the principal office of the foreign limited partnership;

(6) the name and business address of each general partner; and

(7) the address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this state is canceled or withdrawn.

Sec. 40. Minnesota Statutes 1986, section 322A.73, is amended to read:

322A.73 CHANGES AND AMENDMENTS.

If any statement in the application for registration of a foreign limited partnership was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign limited partnership shall promptly file in the office of the secretary of state a certificate, signed and sworn to by a general partner, correcting such statement.

Sec. 41. Minnesota Statutes 1986, section 322A.74, is amended to read:

322A.74 CANCELLATION OF REGISTRATION.

A foreign limited partnership may cancel its registration by filing with the secretary of state a certificate of cancellation signed ~~and sworn to~~ by a general partner. A cancellation does not terminate the authority of the secretary of state to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transactions of business in this state.

Sec. 42. Minnesota Statutes 1987 Supplement, section 331A.02, subdivision 1, is amended to read:

Subdivision 1. **QUALIFICATION.** No newspaper in this state shall be entitled to any compensation or fee for publishing any public notice unless it is qualified as a medium of official and legal publication. A newspaper that is not qualified must inform a public body that presents a public notice for publication

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that it is not qualified. To be qualified as a medium of official and legal publication, a newspaper shall:

(a) be printed in the English language in newspaper format and in column and sheet form equivalent in printed space to at least 1,000 square inches;

(b) if a daily, be distributed at least five days each week, or if not a daily, be distributed at least once each week, for 50 weeks each year. In any week in which a legal holiday is included, not more than four issues of a daily paper are necessary;

(c) in at least half of its issues each year, have no more than 75 percent of its printed space comprised of advertising material and paid public notices. In all of its issues each year, have 25 percent, if published more often than weekly, or 50 percent, if weekly, of its news columns devoted to news of local interest to the community which it purports to serve. Not more than 25 percent of its total nonadvertising column inches in any issue may wholly duplicate any other publication unless the duplicated material is from recognized general news services;

(d) be circulated in the local public corporation which it purports to serve, and either have at least 500 copies regularly delivered to paying subscribers, or have at least 500 copies regularly distributed without charge to local residents;

(e) have its known office of issue established in either the county in which lies, in whole or in part, the local public corporation which the newspaper purports to serve, or in an adjoining county;

(f) file a copy of each issue immediately with the state historical society;

(g) be made available at single or subscription prices to any person, corporation, partnership, or other unincorporated association requesting the newspaper and making the applicable payment, or be distributed without charge to local residents;

(h) have complied with all the foregoing conditions of this subdivision for at least one year immediately preceding the date of the notice publication;

(i) the newspaper must between October 1 and December 31 of each year publish and submit to the secretary of state, along with a filing fee of \$25, a sworn United States Post Office second-class statement of ownership and circulation or a statement of ownership and circulation verified by a recognized independent circulation auditing agency covering a period of not less than one year ending ~~not more than 180 days before~~ no earlier than the June 30 preceding the filing deadline.

Sec. 43. Minnesota Statutes 1986, section 333.01, is amended to read:

333.01 COMMERCIAL ASSUMED NAMES; CERTIFICATE.

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No person shall hereafter carry on or conduct or transact a commercial business in this state under any designation, name, or style, which does not set forth the true name of every person interested in such business unless such person shall file in the office of the secretary of state, a certificate setting forth the name and business address under which the business is conducted or transacted, or is to be conducted or transacted, and the true name of each person conducting or transacting the same, with the address of such person. The certificate shall be executed ~~and duly acknowledged~~ by one of the persons conducting, or intending to conduct, the business. The certificate shall be published after it has been filed with the secretary of state in a qualified newspaper in the county in which the person has a principal or registered office for two successive issues.

Sec. 44. Minnesota Statutes 1986, section 333.055, subdivision 1, is amended to read:

Subdivision 1. Filing of a certificate hereunder shall be effective for a term of ten years from the date of filing and upon application filed within the six month period prior to the expiration of such term or a renewal thereof, on a form prescribed by the secretary of state, the certificate may be renewed for additional ten year terms. A renewal fee as specified herein, payable to the secretary of state, shall accompany the application for renewal.

The secretary of state shall notify each ~~person filing~~ business holding a certificate hereunder of the necessity of renewal thereof by writing to the last known address of the ~~person~~ business at least six months prior to the certificate's expiration date.

Sec. 45. Minnesota Statutes 1986, section 333.055, subdivision 4, is amended to read:

Subd. 4. The secretary of state shall accept for filing all certificates and renewals thereof which comply with the provisions of sections 333.001 to 333.06 and which are accompanied by the prescribed fees, notwithstanding the fact that the assumed name disclosed therein may be the same as, or similar to, one or more other assumed names already filed with the secretary of state. In the event of duplication or similarity, the secretary of state shall, within 20 days after the filing, notify in writing each ~~person who has~~ previously filed business holding a certificate for the assumed name or a similar assumed name, of the duplication or similarity, including in the notice the name and last known address of the person so filing. The secretary of state shall not accept for filing a certificate that discloses an assumed name that is the same as, or deceptively similar to, a corporate, or limited partnership name in use or reserved in this state by another or a trade or service mark registered with the secretary of state, unless there is filed with the certificate a written consent, court decree of prior right, or affidavit of nonuser of the kind required by section 302A.115, subdivision 1, clause (d). The secretary of state shall determine whether a name is "deceptively similar" to another name for purposes of this subdivision.

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Sec. 46. Minnesota Statutes 1986, section 333.06, is amended to read:

333.06 PLEADING FAILURE TO FILE CERTIFICATE; COSTS.

If any person conducting a business contrary to the terms of sections 333.001 to 333.06 shall, prior to the filing of the certificate therein prescribed, commence a civil action, including an action to recover possession of real property in any court of this state on account of any contract made by, or transaction had on behalf of the business, the defendant may plead such failure in abatement of the action; and all proceedings had in the action shall thereupon be stayed until the certificate provided for by sections 333.001 to 333.06 is duly filed, and if the defendant prevails in the action, the defendant shall also be entitled to tax ~~\$\$0~~ \$250 costs, in addition to such other statutory costs as may be allowed by law, and, if the defendant does not prevail in the action, the defendant shall be entitled to deduct ~~\$\$0~~ \$250 from the judgment otherwise recoverable therein and if a judgment for money is not otherwise recoverable therein, the defendant shall be entitled to tax ~~\$\$0~~ \$250 costs. If such a person defends against a civil action, the plaintiff shall be entitled to tax ~~\$\$0~~ \$250 costs, regardless of which party prevails upon the merits.

Sec. 47. Minnesota Statutes 1986, section 333.20, subdivision 2, is amended to read:

Subd. 2. The application shall be signed ~~and verified~~ by the applicant or by a member of the firm or an officer of the corporation or association applying.

Sec. 48. Minnesota Statutes 1986, section 333.22, subdivision 2, is amended to read:

Subd. 2. The secretary of state shall notify each registrant of a mark hereunder of the necessity of renewal thereof by writing to the last known address of the registrant approximately ~~one year~~ six months prior to the registration's expiration date.

Sec. 49. Minnesota Statutes 1986, section 333.23, is amended to read:

333.23 CONVEYANCES OF MARKS; RECORDATION, FEE, NECESSITY.

The secretary of state shall record written ~~and verified~~ conveyances of any mark along with that part of the goodwill of the business in connection with which the mark is used, and of the corresponding application or registration which is presented for recording along with a payment of a fee of \$5 and shall issue in the name of the assignee a new certificate for the remainder of the term of the registration or of the last renewal thereof. An assignment of any registration under sections 333.18 to 333.31 shall be void as against any subsequent purchaser for valuable consideration without notice unless it is recorded with the secretary of state within three months after the date thereof or prior to such subsequent purchase.

Approved April 27, 1988

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