



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1576

Introduced 2/9/2007, by Sen. Michael Noland

SYNOPSIS AS INTRODUCED:

805 ILCS 5/13.50	from Ch. 32, par. 13.50
805 ILCS 5/13.55	from Ch. 32, par. 13.55
805 ILCS 5/13.70	from Ch. 32, par. 13.70
805 ILCS 180/45-35	
805 ILCS 180/45-50	

Amends the Business Corporation Act of 1983 and the Limited Liability Company Act. Revokes the authority of a foreign corporation or foreign limited liability company to transact business in this State when the Secretary of State receives a copy of a memorandum of judgment relating to a judgment entered for money owed to a unit of local government or school district, together with a statement filed by its attorney that the judgment has not been satisfied and that no appeal has been filed. Authorizes the Attorney General to bring an action to restrain a foreign corporation or foreign limited liability company from transacting business in this State, if that authority has been revoked under the listed Sections of the Acts. Effective immediately.

LRB095 03927 LCT 23960 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Business Corporation Act of 1983 is amended
5 by changing Sections 13.50, 13.55, and 13.70 as follows:

6 (805 ILCS 5/13.50) (from Ch. 32, par. 13.50)

7 Sec. 13.50. Grounds for revocation of authority. The
8 authority of a foreign corporation to transact business in this
9 State may be revoked by the Secretary of State:

10 (a) Upon the failure of an officer or director to whom
11 interrogatories have been propounded by the Secretary of State
12 as provided in this Act, to answer the same fully and to file
13 such answer in the office of the Secretary of State.

14 (b) If the answer to such interrogatories discloses, or if
15 the fact is otherwise ascertained, that the proportion of the
16 sum of the paid-in capital of such corporation represented in
17 this State is greater than the amount on which such corporation
18 has theretofore paid fees and franchise taxes, and the
19 deficiency therein is not paid.

20 (c) If the corporation for a period of one year has
21 transacted no business and has had no tangible property in this
22 State as revealed by its annual reports.

23 (d) Upon the failure of the corporation to keep on file in

1 the office of the Secretary of State duly authenticated copies
2 of each amendment to its articles of incorporation.

3 (e) Upon the failure of the corporation to appoint and
4 maintain a registered agent in this State.

5 (f) Upon the failure of the corporation to file for record
6 in the office of the recorder of the county in which its
7 registered office is situated, any appointment of registered
8 agent.

9 (g) Upon the failure of the corporation to file any report
10 after the period prescribed by this Act for the filing of such
11 report.

12 (h) Upon the failure of the corporation to pay any fees,
13 franchise taxes, or charges prescribed by this Act.

14 (i) For misrepresentation of any material matter in any
15 application, report, affidavit, or other document filed by such
16 corporation pursuant to this Act.

17 (j) Upon the failure of the corporation to renew its
18 assumed name or to apply to change its assumed name pursuant to
19 the provisions of this Act, when the corporation can only
20 transact business within this State under its assumed name in
21 accordance with the provisions of Section 4.05 of this Act.

22 (k) When under the provisions of the "Consumer Fraud and
23 Deceptive Business Practices Act" a court has found that the
24 corporation substantially and willfully violated such Act.

25 (l) Upon tender of payment to the Secretary of State which
26 is subsequently returned due to insufficient funds, a closed

1 account, or any other reason, and acceptable payment has not
2 been subsequently tendered.

3 (m) When the Secretary of State receives a copy of a
4 memorandum of judgment relating to a judgment entered for money
5 owed to a unit of local government or school district, together
6 with a statement filed by its attorney that the judgment has
7 not been satisfied and that no appeal has been filed.

8 (Source: P.A. 92-33, eff. 7-1-01; 93-59, eff. 7-1-03.)

9 (805 ILCS 5/13.55) (from Ch. 32, par. 13.55)

10 Sec. 13.55. Procedure for revocation of authority.

11 (a) After the Secretary of State determines that one or
12 more grounds exist under Section 13.50 for the revocation of
13 authority of a foreign corporation, he or she shall send by
14 regular mail to each delinquent corporation a Notice of
15 Delinquency to its registered office, or, if the corporation
16 has failed to maintain a registered office, then to the
17 president or other principal officer at the last known office
18 of said officer.

19 (b) If the corporation does not correct the default
20 described in paragraphs (c) through (k), and paragraph (m), of
21 Section 13.50 within 90 days following such notice, the
22 Secretary of State shall thereupon revoke the authority of the
23 corporation by issuing a certificate of revocation that recites
24 the grounds for revocation and its effective date. If the
25 corporation does not correct the default described in paragraph

1 (a), (b), or (1) of Section 13.50, within 30 days following
2 such notice, the Secretary of State shall thereupon revoke the
3 authority of the corporation by issuing a certificate of
4 revocation as herein prescribed. The Secretary of State shall
5 file the original of the certificate in his or her office, mail
6 one copy to the corporation at its registered office or, if the
7 corporation has failed to maintain a registered office, then to
8 the president or other principal officer at the last known
9 office of said officer, and file one copy for record in the
10 office of the recorder of the county in which the registered
11 office of the corporation in this State is situated, to be
12 recorded by such recorder. The recorder shall submit for
13 payment to the Secretary of State, on a quarterly basis, the
14 amount of filing fees incurred.

15 (c) Upon the issuance of the certificate of revocation, the
16 authority of the corporation to transact business in this State
17 shall cease and such revoked corporation shall not thereafter
18 carry on any business in this State.

19 (Source: P.A. 92-33, eff. 7-1-01; 93-59, eff. 7-1-03.)

20 (805 ILCS 5/13.70) (from Ch. 32, par. 13.70)

21 Sec. 13.70. Transacting business without authority.

22 (a) No foreign corporation transacting business in this
23 State without authority to do so is permitted to maintain a
24 civil action in any court of this State, until the corporation
25 obtains that authority. Nor shall a civil action be maintained

1 in any court of this State by any successor or assignee of the
2 corporation on any right, claim or demand arising out of the
3 transaction of business by the corporation in this State, until
4 authority to transact business in this State is obtained by the
5 corporation or by a corporation that has acquired all or
6 substantially all of its assets.

7 (b) The failure of a foreign corporation to obtain
8 authority to transact business in this State does not impair
9 the validity of any contract or act of the corporation, and
10 does not prevent the corporation from defending any action in
11 any court of this State.

12 (c) A foreign corporation that transacts business in this
13 State without authority is liable to this State, for the years
14 or parts thereof during which it transacted business in this
15 State without authority, in an amount equal to all fees,
16 franchise taxes, penalties and other charges that would have
17 been imposed by this Act upon the corporation had it duly
18 applied for and received authority to transact business in this
19 State as required by this Act, but failed to pay the franchise
20 taxes that would have been computed thereon, and thereafter
21 filed all reports required by this Act; and, if a corporation
22 fails to file an application for authority within 60 days after
23 it commences business in this State, in addition thereto it is
24 liable for a penalty of either 10% of the filing fee, license
25 fee and franchise taxes or \$200 plus \$5.00 for each month or
26 fraction thereof in which it has continued to transact business

1 in this State without authority therefor, whichever penalty is
2 greater. The Attorney General shall bring proceedings to
3 recover all amounts due this State under this Section.

4 (d) The Attorney General shall bring an action to restrain
5 a foreign corporation from transacting business in this State,
6 if the authority of the foreign corporation to transact
7 business has been revoked under subsection (m) of Section 13.50
8 of this Act.

9 (Source: P.A. 92-33, eff. 7-1-01.)

10 Section 10. The Limited Liability Company Act is amended by
11 changing Sections 45-35 and 45-50 as follows:

12 (805 ILCS 180/45-35)

13 Sec. 45-35. Revocation of admission.

14 (a) The admission of a foreign limited liability company to
15 transact business in this State may be revoked by the Secretary
16 of State upon the occurrence of any of the following events:

17 (1) The foreign limited company has failed to:

18 (A) file its limited liability company annual
19 report within the time required by Section 50-1 or has
20 failed to pay any fees or penalties prescribed by this
21 Article;

22 (B) appoint and maintain a registered agent in
23 Illinois within 60 days after a registered agent's
24 notice of resignation under Section 1-35;

1 (C) file a report upon any change in the name or
2 business address of the registered agent;

3 (D) file in the Office of the Secretary of State
4 any amendment to its application for admission as
5 specified in Section 45-25; or

6 (E) renew its assumed name, or to apply to change
7 its assumed name under this Act, when the limited
8 liability company may only transact business within
9 this State under its assumed name.

10 (2) A misrepresentation has been made of any material
11 matter in any application, report, affidavit, or other
12 document submitted by the foreign limited liability
13 company under this Article.

14 (3) Receipt by the Secretary of State of a certified
15 copy of a memorandum of judgment relating to a judgment
16 entered for money owed to a unit of local government or
17 school district, together with a statement filed by its
18 attorney that the judgment has not been satisfied and that
19 no appeal has been filed.

20 (b) The admission of a foreign limited liability company
21 shall not be revoked by the Secretary of State unless all of
22 the following occur:

23 (1) The Secretary of State has given the foreign
24 limited liability company not less than 60 days' notice
25 thereof by mail addressed to its registered office in this
26 State or, if the foreign limited liability company fails to

1 appoint and maintain a registered agent in this State,
2 addressed to the office required to be maintained under
3 paragraph (5) of subsection (a) of Section 45-5.

4 (2) During that 60 day period, the foreign limited
5 liability company has failed to file the limited liability
6 company report, to pay fees or penalties, to file a report
7 of change regarding the registered agent, to file any
8 amendment, ~~or~~ to correct any misrepresentation.

9 (c) Upon the expiration of 120 days after the mailing of
10 the notice, the admission of the foreign limited liability
11 company to transact business in this State shall cease.

12 (Source: P.A. 93-59, eff. 7-1-03.)

13 (805 ILCS 180/45-50)

14 Sec. 45-50. Action to restrain from transaction of
15 business.

16 (a) The Attorney General may bring an action to restrain a
17 foreign limited liability company from transacting business in
18 this State in violation of this Article.

19 (b) If the authority of a foreign limited liability company
20 to do business in Illinois ceases because of failure to pay a
21 judgment reported to the Secretary of State under subdivision
22 (a) (3) of Section 45-35, then the Attorney General shall bring
23 an action to restrain a foreign limited liability company from
24 transacting business in this State.

25 (Source: P.A. 87-1062.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.