

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 547

BY SENATOR BLAIR

[Introduced March 8, 2017; Referred
to the Committee on Finance]

1 A BILL to amend and reenact §59-1-2 and §59-1-2b of the Code of West Virginia, 1931, as
2 amended, all relating to modifying fees to be paid to the Secretary of State; making fees
3 for limited liability companies to be consistent with corporations; adding a voluntary fee for
4 businesses to expedite services to be provided by the Secretary of State; providing that
5 the Secretary of State may set fees by legislative rule; and removing statutory caps
6 imposed on retaining funds of the office.

Be it enacted by the Legislature of West Virginia:

1 That §59-1-2 and §59-1-2b of the Code of West Virginia, 1931, as amended, be amended
2 and reenacted, all to read as follows:

ARTICLE 1. FEES AND ALLOWANCES.

§59-1-2. Fees to be charged by Secretary of State.

1 (a) Except as may be otherwise provided in this code, the Secretary of State shall charge
2 for services rendered in his or her office the following fees to be paid by the person to whom the
3 service is rendered at the time it is done:

4 (1) For filing, recording, indexing, preserving a record of and issuing a certificate relating
5 to the formation, amendment, change of name, registration of trade name, merger, consolidation,
6 conversion, renewal, dissolution, termination, cancellation, withdrawal revocation and
7 reinstatement of business entities organized within the state, as follows:

8 (A) Articles of incorporation of for-profit corporation, ~~\$50.00~~ \$100;

9 (B) Articles of incorporation of nonprofit corporation, \$25;

10 (C) Articles of organization of limited liability company, \$100;

11 (D) Agreement of a general partnership, \$50;

12 (E) Certificate of a limited partnership, \$100;

13 (F) Agreement of a voluntary association, \$50;

14 (G) Articles of organization of a business trust, \$50;

15 (H) Amendment or correction of articles of incorporation, including change of name or
16 increase of capital stock, in addition to any applicable license tax, \$25;

17 (I) Amendment or correction, including change of name, of articles of organization of
18 business trust, limited liability partnership, limited liability company or professional limited liability
19 company or of certificate of limited partnership or agreement of voluntary association, \$25;

20 (J) Amendment and restatement of articles of incorporation, certificate of limited
21 partnership, agreement of voluntary association or articles of organization of limited liability
22 partnership, limited liability company or professional limited liability company or business trust,
23 \$25;

24 (K) Registration of trade name, otherwise designated as a true name, fictitious name or
25 D. B. A. (doing business as) name for any domestic business entity as permitted by law, \$25;

26 (L) Articles of merger of two corporations, limited partnerships, limited liability
27 partnerships, limited liability companies or professional limited liability companies, voluntary
28 associations or business trusts, \$25;

29 (M) Plus for each additional party to the merger in excess of two, \$15;

30 (N) Statement of conversion, when permitted, from one business entity into another
31 business entity, in addition to the cost of filing the appropriate documents to organize the surviving
32 entity, \$25;

33 (O) Articles of dissolution of a corporation, voluntary association or business trust, or
34 statement of dissolution of a general partnership, \$25;

35 (P) Revocation of voluntary dissolution of a corporation, voluntary association or business
36 trust, \$15;

37 (Q) Articles of termination of a limited liability company, cancellation of a limited
38 partnership or statement of withdrawal of limited liability partnership, \$25;

39 (R) Reinstatement of a limited liability company or professional limited liability company
40 after administrative dissolution, \$25.

41 (2) For filing, recording, indexing, preserving a record of and issuing a certificate relating
42 to the registration, amendment, change of name, merger, consolidation, conversion, renewal,
43 withdrawal or termination within this state of business entities organized in other states or
44 countries, as follows:

45 (A) Certificate of authority of for-profit corporation, \$100;

46 (B) Certificate of authority of nonprofit corporation, \$50;

47 (C) Certificate of authority of foreign limited liability companies, \$150;

48 (D) Certificate of exemption from certificate of authority, \$25;

49 (E) Registration of a general partnership, \$50;

50 (F) Registration of a limited partnership, \$150;

51 (G) Registration of a limited liability partnership for two-year term, \$500;

52 (H) Registration of a voluntary association, \$50;

53 (I) Registration of a trust or business trust, \$50;

54 (J) Amendment or correction of certificate of authority of a foreign corporation, including
55 change of name or increase of capital stock, in addition to any applicable license tax, \$25;

56 (K) Amendment or correction of certificate of limited partnership, limited liability
57 partnership, limited liability company or professional limited liability company, voluntary
58 association or business trust, \$25;

59 (L) Registration of trade name, otherwise designated as a true name, fictitious name or D.
60 B. A. (doing business as) name for any foreign business entity as permitted by law, \$25;

61 (M) Amendment and restatement of certificate of authority or of registration of a
62 corporation, limited partnership, limited liability partnership, limited liability company or
63 professional limited liability company, voluntary association or business trust, \$25;

64 (N) Articles of merger of two corporations, limited partnerships, limited liability
65 partnerships, limited liability companies or professional limited liability companies, voluntary
66 associations or business trusts, \$25;

67 (O) Plus, for each additional party to the merger in excess of two, \$5;

68 (P) Statement of conversion, when permitted, from one business entity into another
69 business entity, in addition to the cost of filing the appropriate articles or certificate to organize
70 the surviving entity, \$25;

71 (Q) Certificate of withdrawal or cancellation of a corporation, limited partnership, limited
72 liability partnership, limited liability company, voluntary association or business, trust \$25;

73 Notwithstanding any other provision of this section to the contrary, after June 30, 2008,
74 the fees described in this subdivision that are collected for the issuance of a certificate relating to
75 the initial registration of a corporation, limited partnership, domestic limited liability company or
76 foreign limited liability company shall be deposited in the general administrative fees account
77 established by this section.

78 (3) For receiving, filing and recording a change of the principal or designated office,
79 change of the agent of process and/or change of officers, directors, partners, members or
80 managers, as the case may be, of a corporation, limited partnership, limited liability partnership,
81 limited liability company or other business entity as provided by law, \$15.

82 (4) For receiving, filing and preserving a reservation of a name for each one hundred
83 twenty days or for any other period in excess of seven days prescribed by law for a corporation,
84 limited partnership, limited liability partnership or limited liability company, \$15;

85 (5) For issuing a certificate relating to a corporation or other business entity, as follows:

86 (A) Certificate of good standing of a domestic or foreign corporation, \$10;

87 (B) Certificate of existence of a domestic limited liability company and certificate of
88 authorization foreign limited liability company, \$10;

89 (C) Certificate of existence of any business entity, trademark or service mark registered
90 with the Secretary of State, \$10;

91 (D) Certified copy of corporate charter or comparable organizing documents for other
92 business entities, \$15;

93 (E) Plus, for each additional amendment, restatement or other additional document, \$5;

94 (F) Certificate of registration of the name of a foreign corporation, limited liability company,
95 limited partnership or limited liability partnership, \$25;

96 (G) And for the annual renewal of the name registration, \$10;

97 (H) Any other certificate not specified in this subdivision, \$10.

98 (6) For issuing a certificate other than those relating to business entities, as provided in
99 this subsection, as follows:

100 (A) Certificate or apostille relating to the authority of certain public officers, including the
101 membership of boards and commissions, \$10;

102 (B) Plus, for each additional certificate pertaining to the same transaction, \$5;

103 (C) Any other certificate not specified in this subdivision, \$10;

104 (D) For acceptance, indexing and recordation of service of process any corporation,
105 limited partnership, limited liability partnership, limited liability company, voluntary association,
106 business trust, insurance company, person or other entity as permitted by law, \$15;

107 (E) For shipping and handling expenses for execution of service of process by certified
108 mail upon any defendant within the United States, which fee is to be deposited to the special
109 revenue account established in this section for the operation of the office of the Secretary of State,
110 \$5;

111 (F) For shipping and handling expenses for execution of service of process upon any
112 defendant outside the United States by registered mail, which fee is to be deposited to the special
113 revenue account established in this section for the operation of the office of the Secretary of State,
114 \$15;

115 (7) For a search of records of the office conducted by employees of or at the expense of
116 the Secretary of State upon request, as follows:

117 (A) For any search of archival records maintained at sites other than the office of the
118 Secretary of State no less than, \$10;

119 (B) For searches of archival records maintained at sites other than the office of the
120 Secretary of State which require more than one hour, for each hour or fraction of an hour
121 consumed in making a search, \$10;

122 (C) For any search of records maintained on site for the purpose of obtaining copies of
123 documents or printouts of data, \$5;

124 (D) For any search of records maintained in electronic format which requires special
125 programming to be performed by the state information services agency or other vendor any actual
126 cost, but not less than, \$25;

127 (E) The cost of the search is in addition to the cost of any copies or printouts prepared or
128 any certificate issued pursuant to or based on the search;

129 (F) For recording any paper for which no specific fee is prescribed, \$5.

130 (8) For producing and providing photocopies or printouts of electronic data of specific
131 records upon request, as follows:

132 (A) For a copy of any paper or printout of electronic data, if one sheet, \$1;

133 (B) For each sheet after the first, 50 cents;

134 (C) For sending the copies or lists by fax transmission, \$5;

135 (D) For producing and providing photocopies of lists, reports, guidelines and other
136 documents produced in multiple copies for general public use, a publication price to be
137 established by the Secretary of State at a rate approximating \$2 plus 10 cents per page and
138 rounded to the nearest dollar;

139 (E) For electronic copies of records obtained in data format on disk, the cost of the record
140 in the least expensive available printed format, plus, for each required disk, which shall be
141 provided by the Secretary of State, \$5.

142 (b) The Secretary of State may propose rules for legislative approval, in accordance with
143 the provisions of article three, chapter twenty-nine-a of this code, for charges for online electronic
144 access to database information or other information maintained by the Secretary of State.

145 (c) For any other work or service not enumerated in this section, the fee prescribed
146 elsewhere in this code or a rule promulgated under the authority of this code.

147 (d) The records maintained by the Secretary of State are prepared and indexed at the
148 expense of the state and those records shall not be obtained for commercial resale without the
149 written agreement of the state to a contract including reimbursement to the state for each instance
150 of resale.

151 (e) The Secretary of State may provide printed or electronic information free of charge as
152 he or she considers necessary and efficient for the purpose of informing the general public or the
153 news media.

154 (f) There is hereby continued in the State Treasury a special revenue account to be known
155 as the Service Fees and Collections Account. Expenditures from the account shall be used for
156 the operation of the office of the Secretary of State and are not authorized from collections, but
157 are to be made only in accordance with appropriation by the Legislature and in accordance with
158 the provisions of article three, chapter twelve of this code and upon the fulfillment of the provisions
159 set forth in article two, chapter five-a of this code. Notwithstanding any other provision of this code
160 to the contrary, except as provided in subsection (h) of this section and section two-a of this article,
161 one half of all the fees and service charges established in the following sections and for the
162 following purposes shall be deposited by the Secretary of State or other collecting agency to that
163 special revenue account and used for the operation of the office of the Secretary of State:

164 (1) The annual attorney-in-fact fee for corporations and limited partnerships established in
165 section five, article twelve-c, chapter eleven of this code;

166 (2) The fees received for the sale of the State Register, Code of State Rules and other
167 copies established by rule and authorized by section seven, article two, chapter twenty-nine-a of
168 this code;

169 (3) The registration fees, late fees and legal settlements charged for registration and
170 enforcement of the charitable organizations and professional solicitations established in sections
171 five, nine and fifteen-b, article nineteen, chapter twenty-nine of this code;

172 (4) The annual attorney-in-fact fee for limited liability companies as designated in section
173 one hundred eight, article one, chapter thirty-one-b of this code and established in section two
174 hundred eleven, article two of said chapter: *Provided*, That after June 30, 2008, the annual report
175 fees designated in section one hundred eight, article one, chapter thirty-one-b of this code shall
176 upon collection, be deposited in the General Administrative Fees Account described in subsection
177 (h) of this section;

178 (5) The filing fees and search and copying fees for uniform commercial code transactions
179 established by section five hundred twenty-five, article nine, chapter forty-six of this code;

180 (6) The annual attorney-in-fact fee for licensed insurers established in section twelve,
181 article four, chapter thirty-three of this code;

182 (7) The fees for the application and record maintenance of all notaries public established
183 by section twenty, article four, chapter thirty-nine of this code;

184 (8) The fees for registering credit service organizations as established by section five,
185 article six-c, chapter forty-six-a of this code;

186 (9) The fees for registering and renewing a West Virginia limited liability partnership as
187 established by section one, article ten, chapter forty-seven-b of this code;

188 (10) The filing fees for the registration and renewal of trademarks and service marks
189 established in section seventeen, article two, chapter forty-seven of this code;

190 (11) All fees for services, the sale of photocopies and data maintained at the expense of
191 the Secretary of State as provided in this section; and

192 (12) All registration, license and other fees collected by the Secretary of State not specified
193 in this section.

194 ~~(g) Any balance in the service fees and collections account established by this section~~
195 ~~which exceeds \$500,000 as of June 30, 2003, and each year thereafter, shall be expired to the~~
196 ~~state fund, General Revenue Fund~~

197 (h) ~~(g)~~ (1) Effective July 1, 2008, there is hereby created in the State Treasury a special
198 revenue account to be known as the General Administrative Fees Account. Expenditures from
199 the account shall be used for the operation of the office of the Secretary of State and are not
200 authorized from collections, but are to be made only in accordance with appropriation by the
201 Legislature and in accordance with the provisions of article three, chapter twelve of this code and
202 upon the fulfillment of the provisions set forth in article two, chapter eleven-b of this code:
203 *Provided*, That for the fiscal year ending June 30, 2009, expenditures are authorized from
204 collections rather than pursuant to an appropriation by the Legislature. Any balance in the account
205 at the end of each fiscal year shall not revert to the General Revenue Fund, but shall remain in
206 the fund and be expended as provided by this subsection.

207 (2) After June 30, 2008, all the fees and service charges established in section two-a of
208 this article for the following purposes shall be collected and deposited by the Secretary of State
209 or other collecting agency in the general administrative fees account and used for the operation
210 of the office of the Secretary of State:

211 (A) The annual report fees paid to the Secretary of State by corporations, limited
212 partnerships, domestic limited liability companies and foreign limited liability companies;

213 (B) The fees for the issuance of a certificate relating to the initial registration of a
214 corporation, limited partnership, domestic limited liability company or foreign limited liability
215 company described in subdivision (2), subsection (a) of this section; and

216 (C) The fees for the purchase of date and updates related to the state's Business
217 Organizations Database described in section two-a of this article.

218 ~~(i)~~ (h) There is continued in the office of the Secretary of State a noninterest-bearing,
219 escrow account to be known as the Prepaid Fees and Services Account. This account shall be

220 for the purpose of allowing customers of the Secretary of State to prepay for services, with
221 payment to be held in escrow until services are rendered. Payments deposited in the account
222 shall remain in the account until services are rendered by the Secretary of State and at that time
223 the fees will be reallocated to the appropriate general or special revenue accounts. There shall
224 be no fee charged by the Secretary of State to the customer for the use of this account and the
225 customer may request the return of any moneys maintained in the account at any time without
226 penalty. The assets of the prepaid fees and services account do not constitute public funds of the
227 state and are available solely for carrying out the purposes of this section.

228 (j) (i) A veteran-owned business, as defined in paragraph thirteen, subsection (a), section
229 two-a of this article, commenced on or after July 1, 2015, is exempt from paying the fees
230 prescribed in paragraphs (A), (B), (C), (D), (E), (F) and (G), subdivision (1), subsection (a) of this
231 section.

232 (i) Notwithstanding any other provisions of this article, after July 1, 2017, the Secretary of
233 State may offer a fee for expedited services which shall not exceed, \$500.

234 (k) The fees provided for in this section shall remain in effect until such time as the
235 Legislature has approved rules promulgated by the Secretary of State, in accordance with the
236 provisions of article three, chapter twenty-nine-a of this code, establishing a schedule of fees for
237 services.

§59-1-2b. Purchase of voter registration lists and election data; fees.

1 (a) Except as may be otherwise provided in this code, the Secretary of State shall charge
2 the following fees for data originating in the statewide voter registration system to be paid by the
3 person for whom the service is rendered at the time it is performed:

- 4 (1) Election Cycle Subscription Service ~~\$6,000~~ \$3000
- 5 (2) Statewide Voter Registration List \$500
- 6 (3) Master Voter History List Export \$500
- 7 (4) Statewide Early Voters List \$200

- 8 (5) Statewide Absentee Requests List\$200
- 9 (6) Statewide Absentee Received List\$200
- 10 (7) Partial Voter Registration List Current hourly rate
- 11 (8) Voter History List Current hourly rate
- 12 (9) Complex Research Query Current hourly rate
- 13 (10) Update to a request made under subdivision
- 14 (2), (4), (5), or (6) of this subsection during the election
- 15 year in which the list was requested..... Current hourly rate
- 16 (11) Update to a request made under subdivision (3)
- 17 between the day following the request date and the completion
- 18 of voter history as required by section eighteen, article two,
- 19 chapter three of this code for the next succeeding primary,
- 20 general or odd-year election Current hourly rate
- 21 (b) For the purposes of this section, "Election Cycle Subscription Service" includes:
- 22 (1) Statewide Registered Voter List updated monthly throughout the year and updated
- 23 daily starting thirty days prior to election day through election day;
- 24 (2) Master Voter History List Export following certification of the primary, general and odd-
- 25 year elections;
- 26 (3) Statewide All Mail-in Absentee Request List and Statewide Public Received Mail-in
- 27 Absentee List for the primary, general and odd-year elections, updated daily starting thirty days
- 28 prior to election day through ten days following election day; and
- 29 (4) Statewide Early Voters List for the primary, general and odd-year elections, updated
- 30 daily starting on the first day of early voting through election day.
- 31 (c) At the time that a request is made under subdivision (7), (8) or (9), subsection (a) of
- 32 this section, the current hourly rate, as determined by the Secretary of State, shall be

33 communicated to the prospective purchaser along with an estimate of the number of hours
34 needed to fulfill the request before any list is compiled.

35 (d) Net proceeds from the sale of data originating in the statewide voter registration
36 system, along with any interest on such funds, shall be deposited into the State Election Fund as
37 set forth in subsection (b), section forty-eight, article one, chapter three of this code.

38 (e) The fees provided for in this section shall remain in effect until such time as the
39 Legislature has approved rules promulgated by the Secretary of State, in accordance with the
40 provisions of article three, chapter twenty-nine-a of this code, establishing a schedule of fees for
41 services.

NOTE: The purpose of this bill is to modify fees to be paid to the Secretary of State, making fees for Limited Liability Companies to be consistent with Corporations, adding a voluntary fee for businesses to expedite services to be provided by the Secretary of State, providing the Secretary of State may change fees by legislative rule, and removing statutory caps imposed on retaining funds of the office.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.