

# SENATE BILL REPORT

## SHB 1592

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As Reported by Senate Committee On:  
Judiciary, March 17, 2009

**Title:** An act relating to business entities and associations registered with the secretary of state.

**Brief Description:** Registering business entities and associations with the secretary of state.

**Sponsors:** House Committee on Judiciary (originally sponsored by Representatives Pedersen, Rodne, Kelley and Kenney; by request of Secretary of State).

**Brief History:** Passed House: 2/27/09, 94-0.

**Committee Activity:** Judiciary: 3/17/09 [DP].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass.

Signed by Senators Kline, Chair; Regala, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Kohl-Welles, Roach and Tom.

**Staff:** Brandon Roche (786-7405)

**Background:** Limited Liability Companies. A corporation or a limited liability company (LLC) can be administratively dissolved by the Office of the Secretary of State (OSOS) for failure to comply with requirements that records be kept up-to-date and annual reports are properly filed. Once dissolved, an LLC has two years to correct the problem and apply for reinstatement. Once reinstated, the shield against personal liability that an LLC provides its management will date back to the date of dissolution and it is as if no dissolution occurred. A corporation has five years in which to seek such a reinstatement.

A corporation or an LLC can also voluntarily dissolve upon the happening of a certain event or agreement

Limited Liability Partnerships. A limited liability partnership (LLP) is a type of business entity that is similar to a general partnership. An LLP is often used by professionals, such as accountants and lawyers. A foreign LLP is a partnership that is formed under laws other than the laws of Washington and has the status of an LLP under those laws. All LLPs must register with the OSOS.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Corporations Sole. A corporation sole is a legal entity consisting of a single (sole) incorporated office, occupied by only one person. By statute, a corporation sole may be formed by "any person, being the bishop, overseer, or presiding elder of any church or religious denomination." According to the OSOS, there were only 100 registered corporations sole in Washington until the mid 1990s. There are currently over 3,900 registered corporations sole in the state. The popularity of the business form is attributed to an exemption from federal tax laws as it is considered a 501(c)(3) nonprofit corporation.

**Summary of Bill:** Limited Liability Companies. The time for an administratively dissolved LLC to seek reinstatement is extended from two to five years. A voluntarily dissolved LLC may apply to the OSOS for reinstatement within 120 days of dissolution.

Limited Liability Partnerships. Provisions are added to establish requirements for designating a registered agent and making changes to an LLP's registered office or agent. A registered agent must be an individual who is a Washington resident or a person authorized to do business in Washington. Registered agents are authorized to accept service of process on behalf of an LLP. If a registered agent wants to resign, the agent must notify the OSOS. When an LLP's registered agent cannot be found after reasonable diligence, the OSOS is authorized to accept service on behalf of the LLP. These requirements also apply to foreign LLPs.

Corporations Sole. Each corporation sole registered in the state must file an annual report with updated information. The fee for this filing is set at \$10. The OSOS may administratively dissolve a corporation sole that does not comply with this requirement.

The OSOS must mail a reminder to a corporation sole at least 30 days prior to annual report being due. Failure to do so does not relieve a corporation sole from its obligation to file an annual report.

The OSOS may reinstate a dissolved corporation sole for exigent or mitigating circumstances. Any formation of a new corporation sole after August 1, 2009, is prohibited.

**Appropriation:** None.

**Fiscal Note:** Available.

[OFM requested ten-year cost projection pursuant to I-960.]

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Two parts of this bill are clean-up provisions for LLC's and LLP's; the more unusual part is the corporation sole piece. This is request legislation from the Secretary of State. One of the things that happen when you allow corporations sole to exist is that once they're formed there is no further supervision or interaction with the state. The reason this has become a problem is that people who are not religious organizations have used this to avoid paying the real estate excess tax. That's the reason we've had this explosion of filings of corporations sole.

The changes to LLC's and LLP's are largely in response to customer complaints and recommendations we've received. The law for corporations sole had worked as intended for decades. Beginning in the early 1990s, corporations sole were identified as a loophole to avoid paying taxes; people run seminars to teach this. Fraudulent individuals will assign their taxable income to the corporation sole and then claim it is nontaxable as an asset of the corporation. They use false addresses and make it difficult to follow up with them. The IRS has identified this as a problem. Washington hands over all new registrations to the IRS. The solution mirrors nonprofit laws which just require that they file an annual report and keep us apprised of new contact information. The proposed changes in no way affect a religious entity from forming or practicing. Churches are not required to register; to register as a corporation sole is optional.

**Persons Testifying:** PRO: Representative Pedersen, prime sponsor; Megan Moreno, Office of the Secretary of State.