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The Importance of Annual Registration with Georgia Secretary of State

In order to remain “in good standing”, Georgia corporations are required to complete and return an annual registration form to the Secretary of State accompanied by an annual registration payment of \$30 (at this time).

The annual registration requests the names and addresses of three corporate officers (CEO-President, CFO-Treasurer, and Secretary). Since this information is *requested*, but not *required*, the officer information does not have to be provided each year. The Secretary of State does require the name and physical address (no PO boxes) of the corporation’s registered agent. The registered agent receives the annual registration each year and is the party to whom all official corporate communications can be sent – including service of process if the corporation is subject to a lawsuit.

If the annual registration and/or payment is not submitted to the Secretary of State, the corporation can be administratively dissolved. If this happens, the corporation can be reinstated (as if it was never dissolved at all) during the first five years of dissolution. To reinstate during the first five years of dissolution, the corporation is required to file a current annual registration and submit all unpaid annual registration fees (\$30 for the current year and for each of the previous unpaid years). All owners in a community association need to continue to pay assessments and other charges during the dissolution, because, after reinstatement, the corporation is treated as if it had never been dissolved at all.

If the corporation does not reinstate during the first five years of dissolution, it needs to re-incorporate. Hopefully, the same corporate name still is available, and the corporation can file new articles of incorporation with the Secretary of State (and use the same Bylaws as before the dissolution).

During dissolution the Board members who continue to make decisions, sign contracts, pay bills, enforce the covenants, and collect assessments/fines could be creating personal liability for themselves. Technically, they are acting in the name of a corporation that does not exist. Therefore, an argument could be made that they do not have authority to act as directors or officers anymore. The best way to resolve this issue is to reinstate or re-incorporate as soon as possible.

If the corporation has been dissolved for longer than five years and the original corporate name has been taken by another entity, the dissolved corporation needs to adopt a new corporate name in order to re-incorporate. This could cause problems because the association’s common property is titled in the original corporate name and because the covenants and Bylaws define the term “association” as the corporation with the original corporate name. If the re-incorporated entity has a new name, the covenants, bylaws, and other legal instruments need to be amended to reflect the new corporate name. Additionally, the re-incorporated association needs to find a way for the old corporation to convey the common property to the new entity.

None of these issues arise for any corporation if the annual registration is filed in a timely manner each year.