



**LOUISIANA DEPARTMENT OF STATE
LEGISLATIVE OVERSIGHT REPORT**

NOTICE OF INTENT
(Intended Action)

**TITLE 19
CORPORATION AND BUSINESS**

PART V. Secretary of State

Subpart 3. Foreign Corporations

Chapter 7. Foreign Corporations

Foreign Corporations Penalty Schedule
(Brief Description)

INITIAL REPORT

COPY OF THE RULE AS IT IS PROPOSED FOR ADOPTION, AMENDMENT, OR REPEAL AND STATEMENT OF THE AMOUNT OF THE FEE TO BE ADOPTED OR THE AMOUNT OF THE PROPOSED INCREASE OR DECREASE *(The rule shall be coded with any new rule or language that is to be added to an existing agency rule underscored and any language that is to be deleted from an existing agency rule in struck-through type.)*

Attached is a copy of the Notice of Intent as it is proposed for publication in the September 20, 2015 issue of the Louisiana Register..

STATEMENT OF THE PROPOSED ACTION *(Whether the rule is proposed for adoption, amendment, or repeal; a brief summary of the content of the rule if proposed for adoption or repeal; and a brief summary of the change in the rule if proposed for amendment.)*

The Department of State is proposing to adopt LAC 19:V.Subpart3.Chapter7 to establish a penalty schedule for foreign corporations who transact business in this state without a valid certificate of authority from the Department of State.

SPECIFIC CITATION OF THE ENABLING LEGISLATION PURPORTING TO AUTHORIZE THE ADOPTION, AMENDING, OR REPEAL OF THE RULE OR PURPORTING TO AUTHORIZE THE ADOPTION, INCREASING, OR DECREASING THE FEE

The Notice of Intent is being proposed in accordance with R.S. 12:314.1, R.S. 36:742, and the Administrative Procedures Act.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE ADOPTION, AMENDING, OR REPEAL OF THE RULE OR THE ADOPTION, INCREASING, OR DECREASING OF THE FEE

Under the provisions of R.S. 12:314.1, the Department is required to adopt a schedule of penalties to be imposed for foreign corporations who transact business in this state without a valid certificate of authority from the Department of State not to exceed one thousand dollars per violation.

STATEMENT OF FISCAL IMPACT OF THE PROPOSED ACTION AND STATEMENT OF THE ECONOMIC IMPACT OF THE PROPOSED ACTION, BOTH APPROVED BY THE LEGISLATIVE FISCAL OFFICE

Attached is a copy of the approved Fiscal and Economic Impact Statement for Administrative Rules.

NOTICE OF INTENT

Department of State Business Services Division

Foreign Corporations Penalty Schedule

Pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 12:314.1 and R.S. 36:742, the secretary of state proposes to adopt a penalty schedule for foreign corporations transacting business in this state without a valid certificate of authority from the Department of State.

Title 19

CORPORATION AND BUSINESS

Part V. Secretary of State

Subpart 3. Foreign Corporations

Chapter 7. Foreign Corporations Not Registered with the Department of State

§701. Notification of Foreign Corporation Not Registered with the Department of State

A. When the Department of State is made aware that a foreign corporation is transacting business in this state without a valid certificate of authority, the secretary of state shall notify the foreign corporation by certified mail (return receipt requested) that a certificate of authority is required and must be obtained within 30 days of receipt of the notification.

B. If the foreign corporation does not comply and obtain the certificate of authority within the 30 day period after notification, the Department of State shall investigate the foreign corporation and determine the penalty to be assessed in accordance with the penalty schedule detailed in §703. The foreign corporation shall be notified by certified mail (return receipt requested) that the penalty has been assessed and will have 60 days in which to pay the penalty to the Department of State.

C. If the foreign corporation does not pay the penalty as assessed within the 60 day period, the secretary of state shall notify the attorney general to institute proceedings against the foreign corporation to collect such penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 12:314.1 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Business Services Division, LR 41:

§703. Foreign Corporation Penalty Schedule

A. The secretary of state hereby adopts the following penalty schedule for foreign corporations transacting business in this state without a valid certificate of authority.

1. For a foreign corporation transacting business in the state for less than one year, the penalty fee shall be \$500.

2. For a foreign corporation transacting business in the state for greater than one year but less than three years, the penalty fee shall be \$750.

3. For a foreign corporation transacting business in the state for greater than three years, the penalty fee shall be \$1,000.

B. The acceptable forms of payment are: check, money orders, cashier's check, and credit card. For any check returned to the department as NSF, there will be a charge of \$25. There will be a \$5 service charge for payments by credit card. Payment shall either be hand delivered to the department (Business Services Division, Twelve United Plaza, 8585 Archives Avenue, Baton Rouge, LA) or mailed to the department (Department of State, Business Services Division, P.O. Box 94125, Baton Rouge, LA 70804-9095).

AUTHORITY NOTE: Promulgated in accordance with R.S. 12:314.1 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Business Services Division, LR 41:

Family Impact Statement

The proposed Rule cited in LAC 19:V.Chapter 3 regarding foreign corporations should not have any known or foreseeable impact on any family as defined by R.S. 49:927 or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform the function as contained in the proposed amendments to the Rule.

Poverty Impact Statement

The proposed Rule cited in LAC 19:V.Chapter 3 regarding foreign corporations should not have any known or foreseeable impact on poverty as defined by R.S. 49:973. Specifically, there should be no known or foreseeable effect on:

1. the household income, assets and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; and
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

The proposed Rule on small business has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small business as defined

in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on Small Business.

Provider Impact Statement

The proposed Rule does not have any known or unforeseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

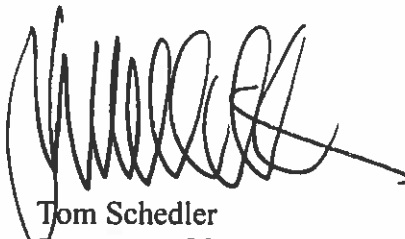
1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Steve Hawkland, Deputy General Counsel, Legal Division, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. He will be responsible for responding to inquiries regarding the proposed amendments to various sections of the Rule. The deadline for the Department of State to receive written comments is 4:30 p.m. on Monday, October 28, 2015 after the public hearing.

Public Hearing

A public hearing on the proposed Rule is scheduled for Tuesday, October 27, 2015 at 1:00 p.m. in the Auditorium at the State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time, all interested persons will be afforded the opportunity to submit data, views, or arguments either orally or in writing.



Tom Schedler
Secretary of State

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person
Preparing
Statement: Carol H. Guidry Dept.: Department of State
Phone: 225.362.5142 Office: Business Services Division
Return
Address: P.O. Box 94125 Rule
Baton Rouge, LA 70804-9125 Title: Foreign Corporations Penalty Schedule
Date Rule
Takes Effect: December 20, 2015

SUMMARY
(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule. The proposed rule establishes procedures related to investigating and sets fine schedules penalizing foreign (out-of-state and international) corporations who conduct business in Louisiana without a valid certificate of authority from the Secretary of State. Noncompliant corporations must register with the Secretary of State within 30 days of being notified of noncompliance. All foreign corporations operating in Louisiana are currently in compliance. Existing Secretary of State personnel would conduct an investigation at no additional cost if it were necessary.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule may have a nominal effect on revenue collections for the Secretary of State. The proposed rule allows for the Secretary of State to penalize foreign corporations up to \$1,000 for conducting business in Louisiana without a certificate of authority. The Secretary of State anticipates no effect on revenues as a result of issuing penalties under the proposed rule because all noncompliant foreign corporations have applied for a certificate of authority within the 30 day time frame after being notified of noncompliance.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule may impact foreign corporations by instituting a fine of up to \$1,000 for conducting business in Louisiana without a certification of authority from the Secretary of State.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule adoption will have no effect on competition and employment.



Signature of Agency Head or Designee
Joe H. Salter, Undersecretary of M & F

Typed Name & Title of Agency Head or Designee

09/09/2015

Date of Signature


Evan Brasseur, Staff Director

Legislative Fiscal Officer or Designee

9/8/15

Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule. The proposed rule establishes procedures related to investigating and sets fine schedules penalizing foreign (out-of-state and international) corporations who conduct business in Louisiana without a valid certificate of authority from the Secretary of State. Noncompliant corporations must register with the Secretary of State within 30 days of being notified of noncompliance. All foreign corporations currently operating in Louisiana are in compliance. In the event of an investigation being necessary, existing Secretary of State personnel would carry it out at no additional cost.

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

See A above.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The proposed rule adoption will have no impact on the expenditure of funds for the Department of State. In the event of an investigation occurring, existing Secretary of State personnel will carry it out.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ Yes. If yes, attach documentation.

(b) _____ NO. If no, provide justification as to why this rule change should be published at this time

N/A

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 16	FY 17	FY 18
Personal Services			
Operating Expenses			
Professional Services			
Other Charges			
Equipment			
Major Repairs & Constr.			
TOTAL	0	0	0
POSITIONS (#)			

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

There is no effect on costs to implement the proposed action.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 16	FY 17	FY 18
State General Fund			
Agency Self-Generated			
Dedicated			
Federal Funds			
Other (Specify)			
TOTAL	0	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

N/A

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There is no estimated effect on revenue collections of local governmental units.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

N/A

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 16	FY 17	FY 18
State General Fund			
Agency Self-Generated BELOW	SEE BELOW	SEE BELOW	SEE
Dedicated Funds*			
Federal Funds			
Local Funds			
TOTAL	0	0	0

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

The proposed rule may have a nominal effect on revenue collections for the Secretary of State. The proposed rule allows for the Secretary of State to penalize foreign corporations up to \$1,000 for conducting business in Louisiana without a certificate of authority. The Secretary of State anticipates no effect on revenues as a result of issuing penalties under the proposed rule because all noncompliant foreign corporations have applied for a certificate of authority within the 30 day time frame after being notified of noncompliance.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

The proposed rule may impact foreign corporations by paying a fine of up to \$1,000 for conducting business in Louisiana without a certification of authority from the Secretary of State.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

See A above.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There will be no impact of the proposed policy on competition and employment.