

## **Instructions for Filing the Application for Certificate of Authority of a Limited Liability Company**

**BEFORE you fill out the application:** The company name you select will be approved **only** if it is available--that is, if the name is not the same as and is distinguishable from any other name which has been reserved or filed. If you prepare L.L.C. papers without applying for and receiving a name reservation, you do so at your own risk. A telephone check on availability of a name is not a guarantee.

You may apply for a name reservation in writing, accompanied by a \$15 fee payable to the WV Secretary of State, mailed to the address on the top of the application.

If you plan to do business under any other name, other than the name on your articles of organization, you must register that trade name with the Secretary of State. Failure to do so could result in a fine or imprisonment.

### **Filling out the Application:**

**Section 1.** Enter the exact **name** of the limited liability company as it is registered in its home state, or country.

**Section 2.** If your home state name is not available in West Virginia, you must do the following:

- ❖ Select a name as a DBA ("doing business as") which your company wants to use in West Virginia; and be sure to include one of the required terms. "Limited liability company," "limited company," or the abbreviations "L.L.C.," "LLC," "L.C.," or "LC." "Limited" may be abbreviated as "Ltd." and "Company" may be abbreviated as "Co." [WV Code §31B-1-105, 31B-10-1005] Professional companies must use "professional limited liability company," professional L.L.C., "professional LLC," "P.L.L.C.," or "PLLC." [WV Code §31B-13-1303]
- ❖ Make certain that name is available, preferably by reserving it in advance.
- ❖ Arrange for the managers or members, depending on the type of company, to make a resolution adopting the fictitious name, and attach a copy of that resolution to the filing. A DBA WILL NOT BE ACCEPTED UNLESS THE REQUIRED RESOLUTION IS ATTACHED.

**Section 3.** Check the first box unless your company qualifies as a professional LLC. A professional LLC may be organized only by one or more persons licensed or otherwise legally authorized to provide the same or compatible professional services or to practice together within the state. No person may be a member of the PLLC who is not licensed or otherwise legally authorized in West Virginia to render the professional service for which the PLLC was organized. Only the following professions listed below under the specified articles of Chapter 30 of West Virginia Code may form a PLLC. If you are a member of another profession, please contact your licensing board before attempting to establish a regular LLC.

Attorneys-at-law	[Article 2]	Physicians & Podiatrists	[Article 3]
Dentists	[Article 4]	Optometrists	[Article 8]
Accountants	[Article 9]	Veterinarians	[Article 10]
Architects	[Article 12]	Engineers	[Article 13]
Osteopathic Physicians and surgeons	[Article 14]	Chiropractors	[Article 16]
Land Surveyors	[Article 13a]	Psychologists	[Article 30]

**\*\*\*Important\*\*\* The Secretary of State cannot complete your filing until confirmation is received from the licensing board that the licenses of your members are current and in effect.**

**\*\*A PLLC is required to carry at all times \$1 million of professional limited liability insurance.  
[See WV Code §31B-13-1305]**

**Section 4.** The **designated office** need not be the principal place of business. The designated office may be changed by filing with the Secretary of State an application to appoint or change address, agent, or officers [Form AAO] (fee \$15).

**Section 5.** List the address of your **principal office**. This is the address to which all correspondence from our office is mailed. You may change your principal office address by filing with the Secretary of State an application to appoint or change address, agent or officers [Form AAO] (fee \$15).

**Section 6.** You may maintain an “**agent of process**” who can receive service of a summons or complaint. The agent may be an individual resident of the state, a domestic corporation, another limited liability company or a foreign corporation or foreign company. You may change your agent by filing with the Secretary of State an application to appoint or change address, agent or officer [Form AAO] (fee \$15).

**Section 7.** List a valid **e-mail address** where future correspondence can be received.

**Section 8.** List the **website address of the business**, if any.

**Section 9.** If your company is an **at-will company** in its home state, it will continue to exist in WV until voluntarily or administratively withdrawn. If your company was established in its home state as a **term company**, give the number of years of its duration, and the date on which its existence will expire. Business must cease in WV on that date unless the certificate of authority is renewed.

**Section 10.** Indicate whether your company is **member-managed** or **manager-managed**. If it is manager-managed, the name and business address of each manager must be listed. The law now requires all LLCs to list the names of all members with signature authority. A PLLC should list all members’ names on a separate attached sheet, in order to assure compliance with licensing requirements.

**Section 11.** Do not check yes to this question unless those members who are liable for all debts, obligations and liabilities of the company gave written consent to be bound by this provision in the operating agreement.

**Section 12.** The State Tax Department requests that you describe the **purposes** of the limited liability company clearly to insure you receive all the necessary information about registering with the required state agencies. **Please note that obtaining a certificate of authority alone does not qualify you to do business in West Virginia. You must obtain a business license from the Department of Tax and Revenue, and you may be required to meet other licensing requirements to do the type of business you intend.** Attach an extra page if needed.

**Section 13.** If the business activities include “**Scrap Metal Dealer**”, select “Yes” and complete the **Scrap Metal Dealer Registration Form (Form SMD-1)** [per revised West Virginia Business Code [§61-3-49-\(b\)\(4\)](#)] and submit with your application. Proceed to question 14. If “No,” proceed to question 14.

**Section 14.** Give the number of attached pages to insure your complete filing is recorded. BE SURE YOUR HOME STATE CERTIFICATE OF EXISTENCE OR COMPARABLE PROOF OF ORGANIZATION IS ATTACHED, and YOUR DBA RESOLUTION IF USING A TRADE NAME. You may wish to attach articles of organization or other information.

**Section 15.** You may accept the date of filing as your effective date, or assign a future date and time when the company will be activated in WV. **The effective date cannot be earlier than the date of filing in the Office of the Secretary of State and no more than 90 days after the date of filing in our office.** If the date you give is more than 90 days after the filing date, the active date will be the 90<sup>th</sup> date after filing. If you do not specify a time, the filing is effective at the close of business on that date. **\*\*\*Important\*\*\* The Secretary of State cannot accept the filing for a specific date if all requirements are not met by that date -- such as receipt of complete and correct articles and fee or receipt of proof of licensing. If you request a specific date and have not met the requirements by that date, the effective date will be the date on which all requirements are met.**

**NOTICE:** WV Code §31B requires every limited liability company (both domestic and foreign) transacting business in West Virginia to file an annual report and pay the required annual report filing fee with the Office of the Secretary of State. The report is to be filed between January 1 and July 1 of each year following the calendar year in which the business was registered with the Office of the Secretary of State. Failure to file may result in revocation of certificate of authority. Notification of the filing requirement will be sent, but the company is responsible for filing the annual report as required by West Virginia Code. You may file the annual report online at [www.business4wv.com](http://www.business4wv.com). You must [register a User Account Login ID and Password](#) to create a personal “Filing Cabinet” to file the annual report.

**Filing Fee:**      Fee for filing **Certificate of Authority:**      **\$150**

                         \$15 per certified copy requested:      + \_\_\_\_\_

   Total Fee:      \_\_\_\_\_

*Make your checks payable to **West Virginia Secretary of State**.*

**TEXT ALERTS:** Stay up-to-date regarding filing deadlines and changes to business, charity, notary, private investigation, and security guard laws. To sign up, go to [www.wvsos.com](http://www.wvsos.com) and click on “[text alert – sign up](#)” at the top of the page. Next, under the heading, “Choose SMS Subscription,” click the down arrow and select “Business and Licensing.” Then enter your ten-digit mobile phone number and your cellular carrier. Click *Subscribe*. This will allow you to get important information delivered right to your mobile phone. Please note, standard text messaging rates apply and you may unsubscribe at any time.

**CANCELLATION:** A foreign limited liability company is a legal entity which can only be cancelled through formal action – not by a letter or phone call. You remain liable for all taxes, assessments, fines, penalties and interest until you receive a certificate of cancelation from the Secretary of State. Contact us for more information.