

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, MARCH 17, 2010

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. CLK-2010-00009

*Ex Parte:* In re: annual registration fees  
for limited liability companies

ORDER ADOPTING A REGULATION

On January 10, 2011, the State Corporation Commission ("Commission") entered an Order to Take Notice of a proposal by the Clerk of the Commission ("Clerk") to revise an existing regulation, Rule 5 VAC 5-40-20, adopted pursuant to § 13.1-1062 of the Code of Virginia. The proposed revision amends the schedule by which the Commission assesses annual registration fees against limited liability companies to provide for such assessments to be based on the anniversary date of formation or registration to transact business in the Commonwealth, in accordance with § 13.1-1062 of the Code of Virginia. The Order and proposed regulation were published in the Virginia Register of Regulations on January 31, 2011, and on the Commission's web site. Interested parties were afforded the opportunity to provide written comments or request a hearing on or before February 16, 2011.

Two comments were filed in this matter, but no requests for a hearing were made. Mr. Chester Terry of Dale City, Virginia, requested that the amount of the annual registration fee remain the same. The proposed regulation does not provide for an increase in the amount of the registration fee paid by a limited liability company.

The second comment came from Mr. Cullen Seltzer, of Richmond, Virginia, who objected to the proposed regulation because limited liability companies formed or registered in the months of January through June would "avoid being assessed any annual registration fee for

2011." Mr. Seltzer also asserted that the proposed regulation and timetable would result in a loss of nearly \$4,000,000 in revenue to the Commonwealth. Mr. Seltzer proposed assessing in May 2011 those limited liability companies with anniversary dates in January through July.

During the development process for the proposed regulation, the Clerk evaluated various assessment options, including an assessment schedule such as proposed by Mr. Seltzer. The proposal presented by the Clerk to the Commission avoids requiring any limited liability company to pay a registration fee twice within a twelve-month period. In addition, the proposed regulation is revenue-neutral to the Commonwealth as the new schedule coincides with the start of a fiscal year.

NOW THE COMMISSION, upon consideration of the proposed regulation and applicable law, concludes that the proposed regulation should be adopted herein with an effective date of April 30, 2011.

Accordingly, IT IS ORDERED THAT:

(1) The proposed regulation, 5 VAC 5-40-20, as attached hereto, is adopted effective April 30, 2011.

(2) This Order and the attached regulation shall be posted on the Commission's web site: <http://www.scc.virginia.gov/case>.

(3) The Commission's Division of Information Resources shall send a copy of this Order, including a copy of the attached regulation, to the Virginia Registrar of Regulations for publication in the Virginia Register of Regulations.

(4) This case is dismissed from the Commission's docket of active cases.

AN ATTESTED COPY hereof shall be sent to the Clerk of the Commission, who shall forthwith mail a copy of this Order, including a copy of the attached regulation, to interested parties as he may designate.

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**5VAC5-40-20. Assessment of limited liability companies.**

Each year, the commission shall ascertain from its records each domestic limited liability company and each foreign limited liability company registered to transact business in the Commonwealth, as of ~~July 1 of each year~~ the first day of the second month preceding the month in which it was organized or registered to transact business in the Commonwealth, and shall assess against each such limited liability company the annual registration fee imposed in subsection A of § 13.1-1062 of the Code of Virginia, and, except as provided in subsection C of § 13.1-1062, that each such limited liability company shall pay the assessment due into the state treasury on or before ~~September 30 in each year after the calendar year in which it was formed~~ the last day of the 12th month next succeeding the month in which it was organized or registered to transact business in the Commonwealth, and by such date in each year thereafter; provided that the initial annual registration fee to be paid by a domestic limited liability company created by conversion shall be due in the year after the calendar year in which it converted.

Each limited liability company will be sent a notice of assessment approximately two months prior to its anniversary month of formation or registration. The assessment payment is due by the last day of the anniversary month of formation or registration. For example, a limited liability company with an anniversary month of formation or registration of July will be assessed an annual registration fee on the preceding May 1, and payment of the fee will be due on or before July 31.