

# COMMONWEALTH OF VIRGINIA

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## STATE CORPORATION COMMISSION Office of the Clerk

December 5, 2012

### NOTICE REGARDING YEAR-END DOCUMENT SUBMISSIONS, EFFECTIVE DATES

The Commission will be closed for several holidays in the latter part of December and the beginning of January. Please plan accordingly when submitting documents to the Clerk's Office for filing during this period.

See [Scheduled State Holidays](#).

Customers should review the following information regarding the practices and procedures employed by the Clerk's Office staff related to the review and processing of business entity documents<sup>1</sup> that are to be filed with the Commission. This is of particular importance for those who desire a document to be filed prior to the end of the year or with an effective date on a day when the Commission will be closed.

#### Effective Dates

A business entity document submitted to the Clerk's Office for filing becomes effective after it is reviewed (to determine if it meets the requirements of Virginia law) and processed (i.e., filed) by Clerk's Office staff, except that a document for a Virginia business entity can be filed with a delayed effective date of up to 15 days after filing, if the document so provides. A document is not filed and does not become effective upon receipt in Clerk's Office, unless the transaction is completed through SCC eFile Express.

A document for a Virginia business entity that sets forth an effective date of December 31 may not be filed until December 16, and a document with a January 1 effective date may not be filed until December 17. Furthermore, since a document's effective date cannot be earlier than the date and time on which it is filed, it is imperative that customers plan ahead for the delivery of a document that needs to be made effective on or before a particular date and time.

#### SCC eFile Express

Articles of incorporation for a new Virginia stock corporation and articles of organization for a new Virginia limited liability company can be filed online, in real time, through [eFile Express](#), which is normally available seven days a week, 24 hours a day. These filings, however, cannot be made with a delayed effective date or time. There are also limitations on the use of certain letters and words in the entity's proposed name, which require the articles to be submitted by other means for review by Clerk's Office staff prior to filing.

## Expedited Services

A customer may request expedited review and processing of a business entity document that is submitted to the Clerk's Office on paper, or as a PDF file through [SCC eFile – PDF Submission](#). Through this service, a document will be reviewed and, if it is acceptable, processed (i.e., filed) on the day the document is received (Same Day service) or the following business day (Next Day service).

An expedited service request requires payment of an expedite fee and the use of the Clerk's Office Expedited Service Request Form, form SCC21.2, which can be downloaded from our [Expedited Services](#) webpage.

Documents submitted to the Clerk's Office after the close of business (usually 5:00 p.m.) are deemed to be received when the office reopens on the next business day (usually 8:15 a.m.).

## Foreign Business Entities

A document for a foreign business entity that is submitted to the Clerk's Office for filing will become effective when it is filed. These documents cannot be filed with a delayed effective date.

An authenticated copy of a foreign business entity document that has a delayed effective date in the jurisdiction in which the entity is incorporated or formed may not be filed in the Clerk's Office until the document becomes effective. If, prior to filing, a customer learns that a submission has been rescinded or voided prior to its effective date, the customer should contact the Clerk's Office and request the document's return with no action.

An application or authenticated document for a foreign business entity may be filed on a date on which the Commission is closed (e.g., January 1), if it is submitted to the Clerk's Office with a written request to have it filed on a particular date, and with adequate time to allow the staff to complete its review of the submission before the desired filing date. If the document is acceptable, it will be filed as of the desired date, even though the Clerk's Office will not be able to complete its processing of the document until after the filing date.

## Recommendations

The Clerk's Office staff can be extremely busy reviewing and processing business entity documents toward the end of the year. It may take the staff up to two weeks or more to review and process a document that was delivered for regular processing. The current estimated turnaround times for regular processing can be obtained by calling the Clerk's Office. The estimates vary by entity type and document type.

Customers who intend to submit a document for a Virginia business entity that needs to be effective as of December 31 or January 1, or on any date on which the Commission will be closed, are encouraged to have the document filed early with a delayed effective date. The effective date must be set forth in the document; it is not sufficient to merely request an effective date in a cover letter.

Expedited service can be used to facilitate the timely filing of a document for a Virginia or foreign business entity. Delayed effective dates can also be used for a Virginia business entity in conjunction with expedited service.

Get started early. Consider having a document submitted for preliminary review in appropriate situations. Keep in mind there is always a chance during this time of year that the Commission may be closed all or part of a day due to inclement weather or additional time off.

#### Footnote

<sup>1</sup> “Business entity documents” include articles of incorporation, correction, amendment, restatement, merger, domestication, incorporation surrender and entity conversion for a Virginia corporation, like documents for a Virginia limited liability company, business trust, or limited partnership, various statements for a partnership, including a registered limited liability partnership, and applications and similar documents for a foreign business entity authorized or registered transact business in Virginia by virtue of a filing in the Clerk’s Office.