



1 be amended and reenacted to read as follows:

2 **ARTICLE 1. FEES AND ALLOWANCES.**

3 **§59-1-2a. Annual business fees to be paid to the Secretary of**  
4 **State; filing of annual reports; purchase of data.**

5 (a) *Definitions.* -- As used in this section:

6 (1) "Annual report fee" means the fee described in subsection  
7 (c) of this section that is to be paid to the Secretary of State  
8 each year by corporations, limited partnerships, domestic limited  
9 liability companies and foreign limited liability companies. After  
10 June 30, 2008, any reference in this code to a fee paid to the  
11 Secretary of State for services as a statutory attorney in fact  
12 shall mean the annual report fee described in this section.

13 (2) "Business activity" means all activities engaged in or  
14 caused to be engaged in with the object of gain or economic  
15 benefit, direct or indirect, but does not mean any of the  
16 activities of foreign corporations enumerated in subsection (b),  
17 section one thousand five hundred one, article fifteen, chapter  
18 thirty-one-d of this code, except for the activity of conducting  
19 affairs in interstate commerce when activity occurs in this state,  
20 nor does it mean any of the activities of foreign limited liability  
21 companies enumerated in subsection (a), section one thousand three,  
22 article ten, chapter thirty-one-b of this code except for the  
23 activity of conducting affairs in interstate commerce when activity

1 occurs in this state.

2 (3) "Corporation" means a "domestic corporation", a "foreign  
3 corporation" or a "nonprofit corporation".

4 (4) "Deliver or delivery" means any method of delivery used in  
5 conventional commercial practice, including, but not limited to,  
6 delivery by hand, mail, commercial delivery and electronic  
7 transmission.

8 (5) "Domestic corporation" means a corporation for profit  
9 which is not a foreign corporation incorporated under or subject to  
10 chapter thirty-one-d of this code.

11 (6) "Domestic limited liability company" means a limited  
12 liability company which is not a foreign limited liability company  
13 under or subject to chapter thirty-one-b of this code.

14 (7) "Foreign corporation" means a for-profit corporation  
15 incorporated under a law other than the laws of this state.

16 (8) "Foreign limited liability company" means a limited  
17 liability company organized under a law other than the laws of this  
18 state.

19 (9) "Limited partnership" means a partnership as defined by  
20 section one, article nine, chapter forty-seven of this code.

21 (10) "Nonprofit corporation" means a nonprofit corporation as  
22 defined by section one hundred fifty, article one, chapter thirty-  
23 one-e of this code.

24 (11) "Registration fee" means the fee for the issuance of a

1 certificate relating to the initial registration of a corporation,  
2 limited partnership, domestic limited liability company or foreign  
3 limited liability company described in subdivision (2), subsection  
4 (a), section two of this article. The term "initial registration"  
5 also means the date upon which the registration fee is paid.

6       (b) *Required payment of annual report fee and filing of annual*  
7 *report.*     -- After June 30, 2008, no corporation, limited  
8 partnership, domestic limited liability company or foreign limited  
9 liability company may engage in any business activity in this state  
10 without paying the annual report fee and filing the annual report  
11 as required by this section.

12       (c) *Annual report fee.*     -- After June 30, 2008, each  
13 corporation, limited partnership, domestic limited liability  
14 company and foreign limited liability company engaged in or  
15 authorized to do business in this state shall pay an annual report  
16 fee of \$25 for the services of the Secretary of State as attorney-  
17 in-fact for the corporation, limited partnership, domestic limited  
18 liability company or foreign limited liability company, and for  
19 such other administrative services as may be imposed by law upon  
20 the Secretary of State. The fee is due and payable each year after  
21 the initial registration of the corporation, limited partnership,  
22 domestic limited liability company or foreign limited liability  
23 company with the annual report described in subsection (d) of this  
24 section on or before the dates specified in subsection (e) of this

1 section. The fee is due and payable each year with the annual  
2 report from corporations, limited partnerships, domestic limited  
3 liability companies and foreign limited liability companies that  
4 paid the registration fee prior to July 1, 2008, on or before the  
5 dates specified in subsection (e) of this section. The annual  
6 report fees received by the Secretary of State pursuant to this  
7 subsection shall be deposited by the Secretary of State in the  
8 general administrative fees account established by section two of  
9 this article.

10 (d) *Annual report.* -- (1) After June 30, 2008, each  
11 corporation, limited partnership, domestic limited liability  
12 company and foreign limited liability company engaged in or  
13 authorized to do business in this state shall file an annual  
14 report. The report is due each year after the initial registration  
15 of the corporation, limited partnership, domestic limited liability  
16 company or foreign limited liability company with the annual report  
17 fee described in subsection (c) of this section on or before the  
18 dates specified in subsection (e) of this section. The report is  
19 due each year from corporations, limited partnerships, domestic  
20 limited liability companies and foreign limited liability companies  
21 that paid the registration fee prior to July 1, 2008, on or before  
22 the dates specified in subsection (e) of this section.

23 (2) (A) The annual report shall be filed with the Secretary of  
24 State on forms provided by the Secretary of State for that purpose.

1 The annual report shall, in the case of corporations, contain: (i)  
2 The address of the corporation's principal office; (ii) the names  
3 and mailing addresses of its officers and directors; (iii) the name  
4 and mailing address of the person on whom notice of process may be  
5 served; (iv) the name and address of the corporation's parent  
6 corporation and of each subsidiary of the corporation licensed to  
7 do business in this state; (v) in the case of limited partnerships  
8 domestic limited liability companies and foreign limited liability  
9 companies, similar information with respect to their principal or  
10 controlling interests as determined by the Secretary of State or  
11 otherwise required by law to be reported to the Secretary of State;  
12 (vi) the county or county code in which the principal office  
13 address or mailing address of the company is located; (vii)  
14 business class code; and (viii) any other information the Secretary  
15 of State considers appropriate.

16 (B) Notwithstanding any other provision of law to the  
17 contrary, the Secretary of State shall, upon request of any person,  
18 disclose, with respect to corporations: (i) The address of the  
19 corporation's principal office; (ii) the names and addresses of its  
20 officers and directors; (iii) the name and mailing address of the  
21 person on whom notice of process may be served; (iv) the name and  
22 address of each subsidiary of the corporation and the corporation's  
23 parent corporation; (v) the county or county code in which the  
24 principal office address or mailing address of the company is

1 located; and (vi) the business class code. The Secretary of State  
2 shall provide similar information with respect to information in  
3 its possession relating to limited partnerships domestic limited  
4 liability companies and foreign limited liability companies,  
5 similar information with respect to their principal or controlling  
6 interests.

7       (e) *Annual reports and fees due July 1.* -- Each domestic and  
8 foreign corporation, limited partnership, limited liability company  
9 and foreign limited liability company shall file with the Secretary  
10 of State the annual report and pay the annual report fee by July 1  
11 of each year.

12       (f) *Deposit of fees.* -- The annual report fees received by  
13 the Secretary of State pursuant to this section shall be deposited  
14 by the Secretary of State in the general administrative fees  
15 account established by section two, article one, chapter fifty-nine  
16 of this code.

17       (g) *Duty to pay.* -- It shall be the duty of each corporation,  
18 limited partnership, limited liability company and foreign limited  
19 liability company required to pay the annual report fees imposed  
20 under this article, to remit them with a properly completed annual  
21 report to the Secretary of State, and if it fails to do so it shall  
22 be subject to the late fees prescribed in subsection (h) of this  
23 article.

24       (h) *Late fees.* -- (1) The following late fees shall be in

1 addition to any other penalties and remedies available elsewhere in  
2 this code:

3       (A) *Administrative late fee.* -- The Secretary of State shall  
4 assess upon each corporation, limited partnership, limited  
5 liability company and foreign limited liability company delinquent  
6 in the payment of an annual report fee or the filing of an annual  
7 report an administrative late fee in the amount of \$50.

8       (B) *Administrative late fees for nonprofit corporations.* --  
9 The Secretary of State shall assess each nonprofit corporation  
10 delinquent in the payment of an annual report fee or the filing of  
11 an annual report an administrative late fee in the amount of \$25.

12       (2) The Secretary of State shall deposit the first \$25,000 of  
13 fees collected under this subsection into the general  
14 administrative fees account established in subsection (h), section  
15 two of this article, and shall deposit any additional fees  
16 collected under this section into the General Revenue Fund of the  
17 state.

18       (i) *Reports to Tax Commissioner; suspension, cancellation or*  
19 *withholding of business registration certificate.* -- (1) The  
20 Secretary of State shall, within twenty days after the close of  
21 each month, make a report to the Tax Commissioner for the preceding  
22 month, in which he or she shall set out the name of every business  
23 entity to which he or she issued a certificate to conduct business  
24 in the State of West Virginia during that month. The report shall



1 set out the names and addresses all corporations, limited  
2 partnerships, limited liability companies and foreign limited  
3 liability companies to which he or she issued certificates of  
4 change of name or of change of location of principal office,  
5 dissolution, withdrawal or merger. If the Secretary of State fails  
6 to make the report, it shall be the duty of the Tax Commissioner to  
7 report such failure to the Governor. A writ of mandamus shall lie  
8 for correction of such failure.

9       (2) Notwithstanding any other provisions of this code to the  
10 contrary, upon receipt of notice from the Secretary of State that  
11 a corporation, limited partnership, limited liability company and  
12 foreign limited liability company is more than thirty days  
13 delinquent in the payment of annual report fees or in the filing of  
14 an annual report required by this section, the Tax Commissioner may  
15 suspend, cancel or withhold a business registration certificate  
16 issued to or applied for by the delinquent corporation, limited  
17 partnership, limited liability company or foreign limited liability  
18 company until the same is paid and filed in the manner provided for  
19 the suspension, cancellation or withholding of business  
20 registration certificates for other reasons under article twelve,  
21 chapter eleven of this code.

22       (j) *Purchase of data.* -- The Secretary of State will provide  
23 electronically, for purchase, any data maintained in the Secretary  
24 of State's Business Organizations Database. For the electronic

1 purchase of the entire Business Organizations Database, the cost is  
2 \$12,000. For the purchase of the monthly updates of the Business  
3 Organizations Database, the cost is \$1,000 per month. The fees  
4 received by the Secretary of State pursuant to this subsection  
5 shall be deposited by the Secretary of State in the general  
6 administrative fees account established by section two, article  
7 one, chapter fifty-nine of this code.

8 (k) The Secretary of State is authorized to collect the  
9 service fee per transaction, if any, charged for an online service  
10 from any customer who purchases data or conducts transactions  
11 through an online service.

12 (l) *Rules.* -- The Secretary of State may propose legislative  
13 rules for promulgation pursuant to article three, chapter twenty-  
14 nine-a of this code to implement this article, and may, pending  
15 promulgation of those rules, promulgate emergency rules pursuant to  
16 those provisions for those purposes.