

Clearinghouse Rule 19-106

PROPOSED ORDER OF THE DEPARTMENT OF FINANCIAL INSTITUTIONS DIVISION OF CORPORATE AND CONSUMER SERVICES CREATING RULES

The Department of Financial Institutions proposes an order to create s. DFI-CCS 10.04 related to fees associated with Wisconsin's Uniform Partnership Act, ch. 178, Stats.

The scope statement for this rule, SS 050-19, was approved by the governor on May 30, 2019; published in *Administrative Register* No. 762A2 on June 10, 2019; and approved by the Secretary for the Department of Financial Institutions on June 24, 2019. The proposed rule was approved by the governor on October 17, 2019.

ANALYSIS

- 1. Statutes interpreted:** Sections 178.0120(1), and (2)(b) and (c), Stats., authorize the department to collect fees for filing partnership records, providing certified copies and certificates of status, processing expedited requests, and filing records in paper format.
- 2. Statutory authority:** Section 178.0120(2)(a), Stats., authorizes the department to establish by rule the fees for filing partnership records, providing certified copies and certificates of status, processing expedited requests, and filing records in paper format under ss. 178.0120(1), and (2)(b) and (c), Stats.
- 3. Explanation of agency authority:** Pursuant to s. 178.0117(1), Stats., the department is the filing office for records filed or provided under ch. 178, Stats.
- 4. Related statutes or rules:** Section 178.0121, Stats., authorizes the department to issue certificates of status for records filed under ch. 178, Stats.
- 5. Plain language analysis:** In 2016, Wisconsin enacted the Wisconsin Uniform Partnership Act, ch. 178, Stats. By this act the legislature authorized the department to promulgate a rule to collect fees for filing records, providing certified copies and certificates of status, processing expedited requests, and filing records in paper format under ch. 178. These fees fund the department's general program operations, including the cost of filing, maintaining and providing records under ch. 178. Any remaining balance is transferred at year-end to the state's general fund, pursuant to s. 20.144(1)(g), Stats.
- 6. Summary of, and comparison with, existing or proposed federal regulation:** The Revised Uniform Partnership Act is a uniform law which has been approved and recommended for enactment in all states by the National Conference of Commissioners on Uniform State Laws.

Laws regarding the organization and registration of partnerships are matters of state law; there is no parallel federal regulation.

7. Comparison with rules in adjacent states: Illinois, Minnesota and Iowa have adopted the Revised Uniform Partnership Act, and for records under this act, established comparable fees. Michigan has not adopted the act, but has established comparable fees for the same. Filing fees in these states range as follows: Illinois, \$25 - \$500; Minnesota \$25 - \$135; Iowa and Michigan, \$5 - \$100. Expedited fees in these states range up to the following: Illinois, \$200; Minnesota, \$520; Michigan, \$1000. Iowa does not offer expedited service.

8. Summary of factual data and analytical methodologies: The proposed fees are based on comparable fees currently assessed by the department for filing records, providing certified copies and certificates of status, processing expedited requests, and filing records in paper format for business corporations and limited liability companies.

9. Analysis and supporting documents used to determine effect on small business: The proposed rule would have no significant impact on small business, as defined in s. 227.114(1), Stats. The department contemplates that the fees to be charged will be comparable to those charged for similar filings by other entities, with standard (*i.e.*, non-expedited) fees ranging from \$10 to \$150 depending on the type of document and whether the partnership is domestic or foreign. The department contemplates that document fees at the high end of that range would relate to a one-time event (*e.g.*, articles of merger or foreign registration statements), while fees for filing annual reports would be only \$25 for domestic partnerships and \$65 for foreign partnerships. Taking the total number of expected annual filings and the fees collected for these, the department estimates that the average annual cost for a partnership would be approximately \$39. Therefore, the financial impact of this rule on small businesses is *de minimis*.

10. Anticipated costs incurred by private sector:

Anticipated costs incurred by the private sector are the filing of annual reports or one-time event fees as set forth in the proposed rule. Taking the total number of expected annual filings and the fees collected for these, the department estimates that the average annual cost for a partnership would be approximately \$39.

11. Effect on small business:

The proposed rule will have little to no effect on small business.

12. Agency contact person: Mary Ann McCoshen, Administrator, Department of Financial Institutions, Division of Corporate and Consumer Services, PO Box 7846, Madison, WI 53707-7846, tel. 608-266-6810.

13. Place where comments are to be submitted and deadline for submission:

Comments may be submitted to the contact person shown below no later than the date on which the public hearing on this proposed rule order is conducted. Information as to the place, date and time of the public hearing will be published in the Wisconsin *Administrative Register* and posted to the department's website.

By mail: Mark Schlei, Deputy Chief Legal Counsel, Department of Financial Institutions, PO Box 8861, Madison, WI 53708-8861.

By delivery: Mark Schlei, Deputy Chief Legal Counsel, Department of Financial Institution, 4822 Madison Yards Way, 4th Floor, North Tower, Madison, WI 53703.

By e-mail: DFIRulesComments@wisconsin.gov.

Via the department's website: <http://www.wdfi.org/statutes/ProposedRules.htm>.

Text of Rule:

SECTION 1. Section DFI-CCS 10.04 is created to read:

DFI-CCS 10.04 Fees under s. 178.0120, Stats. The following fees apply under s. 178.0120, Stats.:

(1) For filing any of the following:

(a) *Annual report for a domestic limited liability partnership*: \$25.

(b) *Annual report for a foreign limited liability partnership*: \$65.

(c) *Articles of conversion, domestication, interest exchange or merger*: \$150.

(d) *Domestic statement of qualification*: \$100.

(e) *Foreign registration statement*: \$100.

(f) *Foreign transfer of registration*: \$50.

(g) *Reinstatement after revocation*: \$100.

(h) *Renewal application*: \$40.

(i) *Statement of amendment, cancellation, change, correction, denial, dissociation, dissolution, renewal, rescission, termination or withdrawal*: \$40.

(j) *Statement of partnership authority*: \$100.

(k) *Amendment or cancellation of foreign registration statement*: \$40.

(l) *Written application for reserved name or renewal of reserved name*: \$15.

(m) *Notice of transfer of reserved or registered name*: \$10.

(n) *Application for registered name or renewal of registered name*: \$50.

(o) *Domestic or foreign limited liability partnership's statement of change of registered office*: \$10.

(p) *Agent's statement of change of registered office*: \$10 for each affected domestic limited liability partnership, except if simultaneous filings are made the fee is reduced to \$1 for each affected domestic or foreign limited liability partnership in excess of 200.

(q) *Agent's statement of resignation*: \$10.

(2) For obtaining a certificate of status: \$10.

(3) In addition to any fee under this section, for expedited processing of any document or document request under this section:

(a) Within 1 hour of receipt: \$500.

(b) Within 4 hours of receipt: \$250.

(c) By the end of the next business day: \$25.

(4) In addition to any fee under this section, for filing in paper format a filing for which there is an online filing option: \$15.

SECTION 2. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

Department of Financial Institutions

Date: _____

By: _____

Patti Epstein
Administrator
Department of Financial Institutions
Division of Corporate and Consumer Services