

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 904

Short Title: Secretary of State Reorganization.

(Public)

Sponsors: Representatives Sexton; Baker, Capps, Carpenter, Cocklereece, Culp, Davis, Eddins, McMahan, Pate, Pulley, Rayfield, Sharpe, Sherrill, Weatherly, C. Wilson, and G. Wilson.

Referred to: State Government.

April 12, 1995

A BILL TO BE ENTITLED

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2 **AN ACT TO TRANSFER THE UNIFORM COMMERCIAL CODE DIVISION, THE**
3 **CORPORATIONS DIVISION, THE SECURITIES DIVISION, THE**
4 **PUBLICATIONS DIVISION, THE BUSINESS LICENSE INFORMATION**
5 **OFFICE, THE TRADEMARK REGISTRATION FUNCTION, AND ALL OTHER**
6 **DUTIES OTHER THAN THOSE RELATING TO KEEPING OF THE STATUTE**
7 **BOOKS AND OTHER MINISTERIAL DUTIES PRESCRIBED BY LAW OF THE**
8 **DEPARTMENT OF SECRETARY OF STATE TO THE DEPARTMENT OF**
9 **COMMERCE, AND TO DIRECT THE SECRETARY OF STATE TO ELIMINATE**
10 **FIFTY PERCENT OF POSITIONS NOT SO TRANSFERRED.**

11 The General Assembly of North Carolina enacts:

12 Section 1. The statutory authority, powers, duties and functions, records,
13 personnel, property, unexpended balances of appropriations, allocations, or other funds,
14 including the functions of budgeting and purchasing, of the Uniform Commercial Code
15 Division, the Corporations Division, the Securities Division, the Business License
16 Information Office, the Notary Public Division, the Land Records Management Division,
17 the Lobbyist Registration function, and the Trademark Registration function of the
18 Department of Secretary of State are transferred to the Department of Commerce.

1 Sec. 2. The Revisor of Statutes shall change any references in the General
2 Statutes to the "Secretary of State" to the "Secretary of Commerce", except for those in
3 the following sections, which relate to the election or existence of the Secretary of State,
4 the keeping of the statute books and other ministerial duties: G.S. 7A-343.1, 8-3, 8-9, 8-
5 14, 11-7.1, 11-11, 77-36, 77-56, 77-57, 104-19, 113A-103, 116-235, 120-29, 120-30.9D,
6 120-32, 125-6, 126-5, 143-138, 143-215.18, 143-215.22G, 143-318.12, 143-341, the title
7 to Article 2 of Chapter 143A of the General Statutes, 143A-19, 143A-20, 143B-80.6,
8 143B-80.9, 143B-417, 146-5, 147-3, 147-11.1, 147-33.2, 147-34, 147-35, 147-36, 147-
9 36.1, 147-37, 147-39, 147-41, 147-49, and any reference in Chapter 163 of the General
10 Statutes.

11 Sec. 3. The Secretary of State shall develop a plan for the elimination of fifty
12 percent (50%) of the remaining positions within the Department of the Secretary of State
13 remaining after the transfers in Section 1 of this act and shall implement that plan July 1,
14 1995.

15 Sec. 4. (a) G.S. 147-36 reads as rewritten:

16 **"§ 147-36. Duties of Secretary of State.**

17 It is the duty of the Secretary of State:

- 18 (1) To attend at every session of the legislature for the purpose of receiving
19 bills which shall have become laws, and to perform such other duties as
20 may then be devolved upon him by resolution of the two Houses, or
21 either of them;
- 22 (2) To attend the Governor, whenever required by him, for the purpose of
23 receiving documents which have passed the great seal;
- 24 (3) To receive and keep all conveyances and mortgages belonging to the
25 State;
- 26 ~~(4) To distribute annually the statutes and the legislative journals;~~
- 27 ~~(5) To distribute the acts of Congress received at his office in the manner~~
28 ~~prescribed for the statutes of the State;~~
- 29 (6) To keep a receipt book, in which he shall take from every person to
30 whom a grant shall be delivered, a receipt for the same; but he may
31 inclose grants by mail in a registered letter at the expense of the grantee,
32 unless otherwise directed, first entering the same upon the receipt book;
- 33 ~~(7) To issue charters and all necessary certificates for the incorporation,~~
34 ~~domestication, suspension, reinstatement, cancellation and dissolution~~
35 ~~of corporations as may be required by the corporation laws of the State~~
36 ~~and maintain a record thereof;~~
- 37 ~~(8) To issue certificates of registration of trademarks, labels and designs as~~
38 ~~may be required by law and maintain a record thereof;~~
- 39 ~~(9) To maintain a Division of Publications to compile data on the State's~~
40 ~~several governmental agencies and for legislative reference;~~
- 41 (10) To receive, enroll and safely preserve the Constitution of the State and
42 all amendments thereto;

- 1 (11) To serve as a member of such boards and commissions as the
2 Constitution and laws of the State may designate;
- 3 ~~(12) To administer the Securities Law of the State, regulating the issuance~~
4 ~~and sale of securities, as is now or may be directed;~~
- 5 (13) To receive and keep all oaths of public officials required by law to be
6 filed in his office, and as Secretary of State, he is fully empowered to
7 administer official oaths to any public official of whom an oath is
8 required; and
- 9 (14) To receive and maintain a journal of all appointments made to any State
10 board, agency, commission, council or authority which is filed in the
11 office of the Secretary of State."
- 12 (b) G.S. 143B-431 is amended by adding a new subsection to read:
- 13 "(e) The Department of Commerce shall:
- 14 (1) Issue charters and all necessary certificates for the incorporation,
15 domestication, suspension, reinstatement, cancellation, and dissolution
16 of corporations as may be required by the corporation laws of the State
17 and maintain a record thereof;
- 18 (2) Distribute annually the statutes and the legislative journals;
- 19 (3) Distribute the acts of Congress received at his office in the manner
20 prescribed for the statutes of the State;
- 21 (4) Issue certificates of registration of trademarks, labels, and designs as
22 may be required by law and maintain a record thereof;
- 23 (5) Maintain a Division of Publications to compile data on the State's
24 several governmental agencies and for legislative reference; and
- 25 (6) Administer the Securities Law of the State, regulating the issuance and
26 sale of securities, as is now or may be directed."

27 Sec. 5. (a) G.S. 147-36.1 reads as rewritten:

28 **"§ 147-36.1. Deputy Secretary of State. Issuance of certificates.**

29 ~~The duly classified Deputy Secretary of State as reflected by the records of the State~~
30 ~~Department of Personnel, appointed by the Secretary of State to aid him in the discharge~~
31 ~~of his duties, shall have the authority to perform all acts and duties of the office in the~~
32 ~~absence of his chief, or in the case of his inability to act, or under his direction. In~~
33 ~~exercising such authority, certificates relating to documents and other filings, shall be~~
34 ~~issued in the name of the Secretary of State, printed, typed, stamped or facsimile~~
35 ~~signature, and signed by the Deputy Secretary of State.~~

36 Employees in the office of the Secretary of State designated as ~~deputy or director of~~
37 ~~specific divisions in the Department,~~ by the Secretary of State are empowered to issue
38 certificates relating to documents and other filings within the scope of their ~~division~~
39 authorization. In exercising such authority the certificates shall be issued in the name of
40 the Secretary of State, printed, typed, stamped or facsimile signature, and signed by the
41 ~~deputy or director employee~~ indicating his approved title. Provided, however, that if the
42 volume of documents or certificates to be issued makes an embossed seal and the
43 autograph signature of the ~~deputy or director employee~~ impractical, the documents may be

1 certified and certificates issued under the facsimile signature and seal of the Secretary of
2 State only."

3 (b) G.S. 143B-431 is amended by adding a new subsection to read:

4 "(f) Employees in the Department of Commerce designated director of a division, or
5 chief of a section in the Department, may issue certificates relating to documents and
6 other filings within the scope of their division or section. In exercising such authority,
7 the certificates shall be issued in the name of the Secretary of Commerce, printed, typed,
8 stamped or facsimile signature, and signed by the director or chief indicating his
9 approved title. Provided, however, that if the volume of documents or certificates to be
10 issued makes an embossed seal and the autograph signature of the deputy or director
11 impractical, the documents may be certified and certificates issued under the facsimile
12 signature and seal of the Secretary of Commerce only."

13 Sec. 6. Section 3 of this act is effective upon ratification. The remainder of
14 this act becomes effective July 1, 1995.