

1 SENATE BILL 388

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Peter Wirth

5  
6  
7  
8  
9  
10 AN ACT

11 RELATING TO BUSINESS; INVALIDATING THE ARTICLES OF  
12 INCORPORATION FOR COOPERATIVE ASSOCIATIONS, NONPROFIT  
13 CORPORATIONS AND FOREIGN AND INSTATE BUSINESS CORPORATIONS AND  
14 THE FILING OF UNINCORPORATED ASSOCIATIONS AND CLUBS WHEN  
15 ARTICLES OR FILINGS LIST THE NAME OR ADDRESS OF A PERSON WHO  
16 DOES NOT EXIST OR IS NOT AFFILIATED WITH THE COOPERATIVE  
17 ASSOCIATION, NONPROFIT CORPORATION, FOREIGN OR INSTATE  
18 CORPORATION OR UNINCORPORATED ASSOCIATION OR CLUB; MAKING IT A  
19 MISDEMEANOR TO FILE SUCH INVALID ARTICLES OF INCORPORATION OR  
20 AN INVALID FILING OF AN UNINCORPORATED ASSOCIATION OR CLUB;  
21 REQUIRING THE REMOVAL OF REGISTRATION OR FILING; PRESCRIBING  
22 PENALTIES; AMENDING SECTIONS OF CHAPTER 53 NMSA 1978.

23  
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

25 SECTION 1. Section 53-4-6 NMSA 1978 (being Laws 1939,

.229509.1

underscoring material = new  
[bracketed material] = delete

underscoring material = new  
[bracketed material] = delete

1 Chapter 164, Section 6, as amended) is amended to read:

2 "53-4-6. ARTICLES OF INCORPORATION--FILING--RECORDATION--  
3 FEES--INVALID FILING--PENALTY.--

4 A. The articles of incorporation of the  
5 association shall be filed with the [~~public regulation~~  
6 ~~commission~~] secretary of state together with a fee of fifty  
7 dollars (\$50.00) and shall be recorded with the county clerk of  
8 the county where the principal office of the association is  
9 located for a fee of one dollar (\$1.00).

10 B. Articles of incorporation that include the  
11 following are invalid:

12 (1) the name of a person who does not exist or  
13 who is not affiliated with the association as the name of an  
14 incorporator or a director of the association; or

15 (2) the address of a residence of a person who  
16 is not affiliated with the association as the principal  
17 location and address of the association.

18 C. Upon proof that an association's articles of  
19 incorporation are invalid pursuant to Subsection B of this  
20 section, the secretary of state shall revoke the association's  
21 registration.

22 D. A person who files articles of incorporation  
23 that are invalid pursuant to Subsection B of this section is  
24 guilty of a misdemeanor and shall be sentenced pursuant to  
25 Section 31-19-1 NMSA 1978."

.229509.1

underscoring material = new  
[bracketed material] = delete

1           SECTION 2. Section 53-8-32 NMSA 1978 (being Laws 1975,  
2 Chapter 217, Section 32, as amended) is amended to read:

3           "53-8-32. FILING OF ARTICLES OF INCORPORATION--INVALID  
4 FILING--PENALTY.--

5           A. An original and a copy, which may be a photocopy  
6 of the original after it was signed or a photocopy that is  
7 conformed to the original, of the articles of incorporation and  
8 a statement executed by the designated registered agent in  
9 which the agent acknowledges acceptance of the appointment by  
10 the filing corporation as its registered agent, if the agent is  
11 an individual, or a statement executed by an authorized officer  
12 of a corporation that is the designated registered agent in  
13 which the officer acknowledges the corporation's acceptance of  
14 the appointment by the filing corporation as its registered  
15 agent, if the agent is a corporation, shall be delivered to the  
16 [~~commission~~] secretary of state. If the [~~commission~~] secretary  
17 of state finds that the articles of incorporation and the  
18 statement conform to law, [~~it~~] the secretary of state shall,  
19 when all fees have been paid as prescribed in the Nonprofit  
20 Corporation Act:

21                           (1) endorse on the original and copy the word  
22 "filed" and the month, day and year of the filing thereof;

23                           (2) file the original and the statement in the  
24 office of the [~~commission~~] secretary of state; and

25                           (3) issue a certificate of incorporation to

.229509.1

underscoring material = new  
[bracketed material] = delete

1 which shall be affixed the copy.

2 B. The certificate of incorporation, together with  
3 the copy of the articles of incorporation affixed thereto by  
4 the ~~[commission]~~ secretary of state, shall be returned to the  
5 incorporators or their representative.

6 C. Articles of incorporation that include the  
7 following are invalid:

8 (1) the name of a person who does not exist or  
9 person who is not affiliated with the corporation as the name  
10 of an incorporator, an initial director or an initial  
11 registered agent of the corporation; or

12 (2) the address of a residence of a person who  
13 does not exist or is not affiliated with the corporation as the  
14 principal location and address of the corporation.

15 D. Upon proof that a corporation's articles of  
16 incorporation are invalid pursuant to Subsection C of this  
17 section, the secretary of state shall revoke the registration  
18 of the corporation.

19 E. A person who files articles of incorporation  
20 that are invalid pursuant to Subsection C of this section is  
21 guilty of a misdemeanor and shall be sentenced pursuant to  
22 Section 31-19-1 NMSA 1978."

23 SECTION 3. Section 53-10-1 NMSA 1978 (being Laws 1937,  
24 Chapter 186, Section 1) is amended to read:

25 "53-10-1. PURPOSE OF ORGANIZATION--FILING ARTICLES--  
.229509.1

underscoring material = new  
[bracketed material] = delete

1 INVALID FILING--PENALTY.--

2           A. Whenever two or more persons [~~shall~~] desire to  
3 form an association for the promotion of their mutual pleasure  
4 or recreation of any hunting, fishing, camping, golf, country  
5 club or association for a similar purpose, or an association  
6 not for the individual profit of the members thereof, and  
7 without incorporating the same as a corporation, or maintaining  
8 the title of its property in trust for the interest of its  
9 several members as they may exist from time to time, the [~~said~~]  
10 persons or members desiring to form such an association or club  
11 may file in the office of the county clerk of the county in  
12 which it may maintain its headquarters and pursue its objects  
13 and purposes a statement containing the name of [~~such~~] the  
14 association, its objects and purposes, the names and residences  
15 of the persons forming [~~such~~] the association, together with a  
16 copy of its articles of association and any rules [~~and/or~~] and  
17 regulations governing the transactions of its objects and  
18 purposes, and prescribing the terms by which its members may  
19 maintain or cease their membership therein.

20           B. A filing of an association or a club pursuant to  
21 this section is invalid when the filing includes:

22                   (1) the name of a person who does not exist or  
23 a person who is not affiliated with the association or club as  
24 a person who is forming the club or association; or

25                   (2) the address of a person who does not exist

underscored material = new  
[bracketed material] = delete

1 or a person who is not affiliated with the association or club  
2 as the address of a person who is forming the club or  
3 association.

4 C. Upon proof that a filing of an association or a  
5 club in a county is invalid pursuant to Subsection B of this  
6 section, a county clerk shall remove the association's or  
7 club's filing from the county's records.

8 D. A person who makes a filing of an association or  
9 a club to a county clerk that is invalid pursuant to Subsection  
10 B of this section is guilty of a misdemeanor and shall be  
11 sentenced pursuant to Section 31-19-1 NMSA 1978."

12 SECTION 4. Section 53-11-11 NMSA 1978 (being Laws 1967,  
13 Chapter 81, Section 11) is amended to read:

14 "53-11-11. REGISTERED OFFICE AND REGISTERED AGENT--  
15 INVALID REGISTRATION--PENALTY.--

16 A. Each corporation shall have and continuously  
17 maintain in this state:

18 [~~A.~~] (1) a registered office [~~which~~] that may  
19 be, but need not be, the same as its place of business; and

20 [~~B.~~] (2) a registered agent, which agent may  
21 be either an individual resident in this state whose business  
22 office is identical with the registered office, or a domestic  
23 corporation, or a foreign corporation authorized to transact  
24 business in this state, having a business office identical with  
25 the registered office.

.229509.1

underscored material = new  
[bracketed material] = delete

1                   B. A registration required by this section is  
2 invalid when a corporation has registered:

3                   (1) the name of a person who does not exist or  
4 a person who is not affiliated with the corporation as the name  
5 of the registered agent of the corporation; or

6                   (2) the address of a residence of a person who  
7 does not exist or is not affiliated with the corporation as the  
8 registered office of the corporation.

9                   C. Upon proof that a corporation's registration is  
10 invalid pursuant to Subsection B of this section, the secretary  
11 of state shall revoke the registration of the corporation.

12                   D. A person who registers a registration that is  
13 invalid pursuant to Subsection B of this section is guilty of a  
14 misdemeanor and shall be sentenced pursuant to Section 31-19-1  
15 NMSA 1978."

16                   SECTION 5. Section 53-11-13 NMSA 1978 (being Laws 1967,  
17 Chapter 81, Section 12, as amended) is amended to read:

18                   "53-11-13. CHANGE OF REGISTERED OFFICE OR REGISTERED  
19 AGENT.--

20                   A. A corporation may change its registered office  
21 or change its registered agent, or both, upon filing in the  
22 office of the [~~public regulation commission~~] secretary of state  
23 a statement setting forth:

- 24                   (1) the name of the corporation;  
25                   (2) the address of its registered office;

.229509.1

underscoring material = new  
[bracketed material] = delete

1 (3) if the address of its registered office is  
2 to be changed, the address to which the registered office is to  
3 be changed;

4 (4) the name of its registered agent;

5 (5) if its registered agent is to be changed:

6 (a) the name of its successor registered  
7 agent; and

8 (b) a statement executed by the  
9 successor registered agent acknowledging [~~his~~] the successor's  
10 acceptance of the appointment by the filing corporation as its  
11 registered agent, if the agent is an individual, or a statement  
12 executed by an authorized officer of a corporation that is the  
13 successor registered agent in which the officer acknowledges  
14 the corporation's acceptance of the appointment by the filing  
15 corporation as its registered agent, if the agent is a  
16 corporation; and

17 (6) that the address of its registered office  
18 and the address of the business office of its registered agent,  
19 as changed, will be identical.

20 B. The statement shall be executed by the  
21 corporation by an authorized officer and delivered to the  
22 [~~public regulation commission~~] secretary of state. If the  
23 [~~commission~~] secretary of state finds that the statement  
24 conforms to the provisions of the Business Corporation Act,  
25 [~~it~~] the secretary of state shall file the statement in [~~its~~]

.229509.1



underscoring material = new  
[bracketed material] = delete

1 the office of the secretary of state, and, upon such filing,  
2 the change of address of the registered office or the  
3 appointment of a new registered agent, or both, as the case may  
4 be, becomes effective, and, upon filing, fulfills the  
5 requirement to file a supplemental report under Section 53-5-2  
6 NMSA 1978.

7 C. Any registered agent of a corporation may resign  
8 upon filing a written notice of resignation with the [~~public~~  
9 ~~regulation commission~~] secretary of state. The [~~commission~~  
10 secretary of state] shall mail a copy immediately to the  
11 corporation at its principal place of business as shown on the  
12 records of the [~~commission~~] secretary of state. The  
13 appointment of the resigning agent shall terminate upon the  
14 expiration of thirty days after receipt of the notice by the  
15 [~~commission~~] secretary of state.

16 D. If a registered agent changes [~~his~~] the  
17 registered agent's business address to another place within the  
18 same county, [~~he~~] the registered agent may change the address  
19 and the address of the registered office of any corporation of  
20 which [~~he~~] the registered agent is the registered agent by  
21 filing a statement as required by this section except that it  
22 need be signed only by the registered agent, need not be  
23 responsive to Paragraph (5) of Subsection A of this section and  
24 shall recite that a copy of the statement has been mailed to  
25 the corporation.

.229509.1

underscoring material = new  
[bracketed material] = delete

1           E. If a registered agent changes the street address  
2 of the registered agent's business office, the registered agent  
3 may change the street address of the registered office of any  
4 corporation for which the registered agent is the registered  
5 agent by notifying the corporation in writing of the change and  
6 signing, either manually or in facsimile, and delivering to the  
7 ~~[public regulation commission]~~ secretary of state for filing a  
8 statement that complies with the requirements of Subsection A  
9 of this section, and recites that the corporation has been  
10 notified of the change.

11           F. A registration required by this section is  
12 invalid when a corporation has registered:

13                   (1) the name of a person who does not exist or  
14 a person who is not affiliated with the corporation as the name  
15 of the registered agent of the corporation; or

16                   (2) the address of a residence of a person who  
17 does not exist or is not affiliated with the corporation as the  
18 registered office of the corporation.

19           G. Upon proof that a registration for a  
20 corporation's registered agent or registered office is invalid  
21 pursuant to Subsection F of this section, the secretary of  
22 state shall revoke the registration of the corporation.

23           H. A person who registers a registration that is  
24 invalid pursuant to Subsection F of this section is guilty of a  
25 misdemeanor and shall be sentenced pursuant to Section 31-19-1

.229509.1

underscoring material = new  
[bracketed material] = delete

1 NMSA 1978."

2 SECTION 6. Section 53-12-3 NMSA 1978 (being Laws 1967,  
3 Chapter 81, Section 51, as amended) is amended to read:

4 "53-12-3. FILING OF ARTICLES OF INCORPORATION--INVALID  
5 FILING--PENALTY.--

6 A. An original of the articles of incorporation  
7 together with a copy, which may be signed, photocopied or  
8 conformed, and a statement executed by the designated  
9 registered agent acknowledging acceptance of the appointment by  
10 the filing corporation as its registered agent, if the agent is  
11 an individual, or a statement executed by an authorized officer  
12 of a corporation that is the designated registered agent in  
13 which the officer acknowledges the corporation's acceptance of  
14 the appointment by the filing corporation as its registered  
15 agent, if the agent is a corporation, shall be delivered to the  
16 [~~commission~~] secretary of state. If the [~~commission~~] secretary  
17 of state finds that the articles of incorporation and the  
18 statement conform to law, [~~it~~] the secretary of state shall,  
19 when all fees have been paid:

20 (1) endorse on the original and copy the word  
21 "filed" and the month, day and year of the filing thereof;

22 (2) file the original and the statement in  
23 [~~its~~] the office of the secretary of state; and

24 (3) issue a certificate of incorporation to  
25 which [~~it~~] the secretary of state shall affix the file-stamped

.229509.1

underscoring material = new  
[bracketed material] = delete

1 copy.

2 B. The certificate of incorporation, together with  
3 the file-stamped copy of the articles of incorporation affixed  
4 to it, shall be returned by the ~~[commission]~~ secretary of state  
5 to the incorporators or their representative.

6 C. Articles of incorporation that include the  
7 following are invalid:

8 (1) the name of a person who does not exist or  
9 a person who is not affiliated with the corporation as the name  
10 of an incorporator, a person who has consented to serve as a  
11 director until the first annual meeting of shareholders or  
12 their successors are elected and qualify or an initial  
13 registered agent of the corporation; or

14 (2) an address of a residence of a person who  
15 does not exist or who is not affiliated with the corporation as  
16 the address of an incorporator, an initial registered office or  
17 the initial registered agent at the office.

18 D. Upon proof that a corporation's articles of  
19 incorporation are invalid pursuant to Subsection C of this  
20 section, the secretary of state shall revoke the corporation's  
21 certificate of incorporation.

22 E. A person who files articles of incorporation  
23 that are invalid pursuant to Subsection C of this section is  
24 guilty of a misdemeanor and shall be sentenced pursuant to  
25 Section 31-19-1 NMSA 1978."

.229509.1

underscored material = new  
[bracketed material] = delete

1           SECTION 7. Section 53-13-5 NMSA 1978 (being Laws 1967,  
2 Chapter 81, Section 59, as amended) is amended to read:

3           "53-13-5. FILING OF ARTICLES OF AMENDMENT--INVALID  
4 FILING--PENALTY.--

5           A. An original and a copy, which may be a photocopy  
6 of the original after it was signed or a photocopy that is  
7 conformed to the original, of the articles of amendment shall  
8 be delivered to the [~~commission~~] secretary of state. If the  
9 [~~commission~~] secretary of state finds that the articles of  
10 amendment conform to law, [~~it~~] the secretary of state shall,  
11 when all fees have been paid:

12                           (1) endorse on the original and copy the word  
13 "filed" and the month, day and year of the filing;

14                           (2) file the original in [~~its~~] the office of  
15 the secretary of state; and

16                           (3) issue a certificate of amendment to which  
17 [~~it~~] the secretary of state shall affix the copy.

18           B. The certificate of amendment, together with the  
19 duplicate original of the articles of amendment affixed thereto  
20 by the [~~commission~~] secretary of state, shall be returned to  
21 the corporation or its representative.

22           C. Articles of amendment that include the following  
23 are invalid:

24                           (1) the name of a person who does not exist or  
25 a person who is not affiliated with the corporation as an

underscored material = new  
[bracketed material] = delete

1 incorporator, a director or a registered agent of the  
2 corporation; or

3 (2) an address of a residence of a person who  
4 is not affiliated with the corporation as the address of an  
5 incorporator, a registered office or a registered agent at the  
6 office.

7 D. Upon proof that a corporation's articles of  
8 amendment are invalid pursuant to Subsection C of this section,  
9 the secretary of state shall revoke the corporation's amended  
10 registration.

11 E. A person who files articles of amendment that  
12 are invalid pursuant to Subsection C of this section is guilty  
13 of a misdemeanor and shall be sentenced pursuant to Section  
14 31-19-1 NMSA 1978."

15 SECTION 8. Section 53-17-6 NMSA 1978 (being Laws 1967,  
16 Chapter 81, Section 108, as amended) is amended to read:

17 "53-17-6. FILING OF APPLICATION FOR CERTIFICATE OF  
18 AUTHORITY--INVALID FILING--PENALTY.--

19 A. A corporation applying for a certificate of  
20 authority shall deliver to the [~~commission~~] secretary of state:

21 (1) an original of the application of the  
22 corporation for a certificate of authority together with a  
23 copy, which may be signed, photocopied or conformed;

24 (2) a certificate of good standing and  
25 compliance issued by the appropriate official of the state or

.229509.1

underscored material = new  
[bracketed material] = delete

1 country under the laws of which the corporation is  
2 incorporated, current within thirty days and ~~[which]~~ that has  
3 not expired at the time of receipt by the ~~[commission]~~  
4 secretary of state; and

5 (3) a statement executed by the designated  
6 registered agent acknowledging ~~[his]~~ the agent's acceptance of  
7 the appointment by the filing corporation as its registered  
8 agent, if the agent is an individual, or a statement executed  
9 by an authorized officer of a corporation that is the  
10 designated registered agent in which the officer acknowledges  
11 the corporation's acceptance of the appointment by the filing  
12 corporation as its registered agent, if the agent is a  
13 corporation.

14 B. If the ~~[commission]~~ secretary of state finds  
15 that the application and the statement conform to law, ~~[it]~~ the  
16 secretary of state shall, when all fees have been paid:

17 (1) endorse on the original and copy the word  
18 "filed" and the month, day and year of the filing;

19 (2) file in ~~[its]~~ the office of the secretary  
20 of state the original of the application, the statement and the  
21 copy of the articles of incorporation and amendments thereto;  
22 and

23 (3) issue a certificate of authority to  
24 transact business in this state to which ~~[it]~~ the secretary of  
25 state shall affix the file-stamped copy.

.229509.1

underscored material = new  
[bracketed material] = delete

1 C. The certificate of authority, together with the  
2 file-stamped copy of the application affixed to it, shall be  
3 returned by the [~~commission~~] secretary of state to the  
4 corporation or its representative.

5 D. An application for a certificate of authority  
6 that includes the following is invalid:

7 (1) the name of a person who does not exist or  
8 a person who is not affiliated with the corporation as the name  
9 of a director or an officer of the corporation who has  
10 consented to serve; or

11 (2) an address of a residence of a person who  
12 is not affiliated with the corporation as the address of the  
13 registered office of the corporation or, if different, the  
14 principal office of the corporation or its proposed registered  
15 office in this state.

16 E. Upon proof that a corporation's application for  
17 a certificate of authority is invalid pursuant to Subsection D  
18 of this section, the secretary of state shall revoke the  
19 corporation's certificate of authority.

20 F. A person who files an application for a  
21 certificate of authority that is invalid pursuant to Subsection  
22 D of this section is guilty of a misdemeanor and shall be  
23 sentenced pursuant to Section 31-19-1 NMSA 1978."

24 **SECTION 9. EFFECTIVE DATE.**--The effective date of the  
25 provisions of this act is July 1, 2025.

.229509.1