

May Is for Flowers and Cautious Optimism

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An Update to the New York LLC Transparency Act



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New York recently Amended the New York LLC Transparency Act.^[1] The original version of the law was enacted December, 2023 and mandated disclosure of beneficial ownership of limited liability companies. Please see our previous article for an overview of the Act and the disclosure requirements [here](#).

The Amended Legislation is introduced to make technical changes, add details, compile and share information and change the effective date of the Act. The law is amended by adding in section 1106, which defines relevant terms, 1107, which details the filing requirements, and 1108, which describes the violations and penalties associated with not complying.

Who must file and When:

The Acts' effective date was pushed back a year from January 1, 2025 to January 1, 2026. All previously formed or authorized reporting companies must file a beneficial ownership disclosure within one year of the effective date.^[2] Similarly, any previously formed or authorized exempt companies must file an attestation of exemption within one year of the effective date.^[3]

For entities formed after the effective date, a beneficial ownership disclosure must be filed by all reporting companies within 30 days of the filing of the company's articles of organization or application for authority.^[4] For any exempt company, an attestation of exemption must be filed within 30 days of the filing of the articles of organization or application for authority.^[5]

Once the initial beneficial disclosure has been filled all reporting companies must file an annual statement confirming or updating their beneficial ownership disclosure information.^[6]

What will be done with the Information:

Previously, all the information was to be stored on a database open to the public. However, the amendment now requires that all information relating to natural persons as beneficial owners be collected by the department of state and maintained in a secure database.^[7] The information will be considered confidential unless (1) the beneficial owner consents or requests the information be released; (2) a court order mandates the information be released; (3) officers or employees of another federal, state or local government agency require the information to perform their official duties; or (4) for valid law enforcement purposes.^[8] Any disclosure of information may not be further disclosed unless authorized by law or necessary in the performance of statutory duties.^[9]

Violations and Penalties:

The Amendment has also added a new and potentially substantial monetary fine to the Act. The attorney general may now assess a fine of up to \$500 dollars for each day the reporting company is late to file.^[10] Any past due or delinquent status must include verification from the attorney general that any penalties imposed have been paid.^[11]

Further, the Amendment clarifies how false or fraudulent information will be treated. The updated act states that it is unlawful for a person to knowingly provide or attempt to provide false or fraudulent information to the department of

state.^[12] However, if a person submits false information, they will not be in violation of the Act, if they voluntarily and promptly provide corrected information, unless the previously misleading information was used for the purpose of evading the requirements of the Act.^[13]

Should an LLC fail to timely file or provide false information the New York State Attorney General may open an investigation.^[14] The New York State Attorney General may choose to bring an action to dissolve or cancel any entity which fails to file or provides false or fraudulent information.^[15] In such instances, the court will have discretion to dissolve and cancel the limited liability company or annul a foreign limited liability company's authority to do business in the state.^[16]

Lastly, any reporting company or exempt company that fails to file in accordance with the Act will be suspended after 30 days' notice.^[17] If suspended, any reporting or exempt company must not conduct business in New York state until the beneficial ownership disclosure or attestation of exemption has been filed.^[18] Once filed, the suspension will be void and all corporate powers, rights, privileges, immunities, duties and liabilities will be restored retroactively.^[19]

^[1] S.B. 8059, enacted January 5, 2024.

^[2] See New York Limited Liability Company Law § 1107(e).

^[3] *Id.*

^[4] See New York Limited Liability Company Law § 1107(d).

^[5] *Id.*

^[6] See New York Limited Liability Company Law § 1107(e).

^[7] See New York Limited Liability Company Law § 1107(f).

^[8] *Id.* The department of state will establish provisions for sharing information with agencies permitted to access the information relating to beneficial owners. *Id.*

^[9] *Id.*

^[10] See New York Limited Liability Company Law § 1108(a)(2) and (b)(2).

^[11] See New York Limited Liability Company Law § 1108(a)(3) and (b)(3).

^[12] See New York Limited Liability Company Law § 1108(c).

^[13] *Id.*

^[14] See New York Limited Liability Company Law § 1108(c-d).

^[15] *Id.*

^[16] *Id.*

^[17] See New York Limited Liability Company Law § 1108(g).

^[18] *Id.*

^[19] *Id.*