

A Guide For Organizing Domestic Corporations



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My office provides this booklet to assist you in the process of forming your own corporation, a procedure that sometimes can be complicated. The booklet provides detailed guidelines for filing the Articles of Incorporation, as well as information on filing fees, government agencies you must contact and legal obligations you will assume after incorporation.

Because some of the terminology used in this booklet may be new and confusing, I encourage you to consult with an attorney to learn your exact legal obligations at each step of the organization process.

If you have further questions about organizing your corporation, please contact my office's Department of Business Services, Corporations Division, at 217-782-9522.

Jesse White

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Illinois Secretary of State



A GUIDE FOR ORGANIZING DOMESTIC CORPORATIONS

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Unless otherwise indicated, all Section (§) references are to the Illinois Business Corporation Act of 1983, Illinois Compiled Statutes 1992, Chapter 805, Act 5 et seq.

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INTRODUCTION

Businesses may be organized in many ways. The most common forms today are sole proprietorship, partnership, limited partnership, limited liability company and corporation. This guide assumes you have selected “corporation” as the form of business organization most suited to your objectives.

These guidelines should not serve as a substitute for statutory analysis or professional advice. To be sure you understand the legal, business, tax and financial obligations and consequences that may result from incorporating your business, you may want to consult an attorney and an accountant.



DEPARTMENT OF BUSINESS SERVICES

The Secretary of State’s Department of Business Services serves as an approval and record-keeping office for corporations in Illinois. Information on corporate filings is available by telephone, letter or over the counter at offices in Springfield and Chicago. Standard forms also are available at www.cyberdriveillinois.com. **Legal, financial and business advice is not provided by the Department of Business Services.** (See page 20 for addresses and telephone numbers.)



ARTICLES OF INCORPORATION Drafting the Articles of Incorporation

All Articles of Incorporation must be submitted in duplicate (*one original and one true copy*). When using the standard Form BCA 2.10, the first four Articles must be fully completed (required provisions), and all responses must be typed or printed in black ink.

Corporate existence begins only when the Department of Business Services has “filed” the Articles of Incorporation.

The Articles of Incorporation must set forth the following: corporate name; initial registered agent and registered office; corporate purpose; authorized shares; initial issued shares and the consideration to be paid therefor. The next few pages outline these provisions and highlight some of the optional provisions. For convenience, the discussion follows the order of the standard form.

ARTICLE 1: CORPORATE NAME §4.05

A. Restrictions

Distinguishable: The Business Corporation Act of 1983 provides that you may choose a name **so long as it is distinguishable upon the records of the Secretary of State** from the corporate name or assumed corporate name of

any existing Illinois corporation, or of any foreign corporation authorized to transact business in Illinois, or any limited liability company name, or a name that is currently reserved or registered.

NOTE: *Acceptance of a name is made without regard to the names of sole proprietorships, partnerships, trade names and the like. If you are uncertain about your rights and liabilities in a name, consult your attorney before using the name chosen.*

Corporate Designator: The name must contain, separate and apart from any other word or abbreviation, the word “CORPORATION,” “INCORPORATED,” “COMPANY,” “LIMITED” or an abbreviation of one of these words.

Restricted Words: The name may not contain any word or phrase that indicates or implies that the corporation is organized for the purposes of insurance, assurance, banking or a fiduciary.

Permitted Letters and Characters: The name must consist of letters of the English alphabet, Arabic or Roman numerals and/or only those symbols capable of being reproduced by the Department of Business Services.

Business Name: The name shall be the name under which the corporation shall transact business in Illinois, unless the corporation shall also elect to adopt one or more assumed corporate names.

NOTE: *A divisional designation or a trade name is not considered an assumed corporate name if the true corporate name is clearly and fully disclosed every time such divisional designation or trade name is used.*

B. Professional Service Corporations - Name (see page 11)

C. Medical Corporations - Name (see page 13)

D. Name Availability

Before submitting the Articles of Incorporation, you can determine if the name you have chosen **appears** to be available and acceptable for use by writing to the Department of Business Services in Springfield or by calling the special NAME AVAILABILITY NUMBER at 217-782-9520. Be prepared with alternative names. A preliminary check also may be done on the Business Services webpage at www.cyberdriveillinois.com.

NOTE: *A preliminary name availability determination DOES NOT guarantee that the name will be available at a later date. The Department of Business Services reserves final determination of availability until a Name Reservation, Articles of Incorporation or Assumed Corporate Name Application is filed.*

E. Name Reservation §4.10

A name may be reserved for 90 days for a \$25 fee by filing Form BCA 4.10 or writing a letter stating the name to be reserved, a brief corporate purpose, and the name and address of the applicant.

ARTICLE 2: REGISTERED AGENT AND REGISTERED OFFICE

A. Function of the Registered Agent and Registered Office

Each corporation is required by the Business Corporation Act of 1983 to have and maintain a registered agent and a registered office in Illinois to provide a public record of the name and address of a person upon whom all process on the corporation may be served. In addition, the Department of Business Services sends all official correspondence to the registered agent at the registered office on record.

B. Who May be a Registered Agent?

The registered agent must be either:

- a person who resides in Illinois, OR
- a corporation **specifically authorized** by its Articles of Incorporation to act as a registered agent and which has an office in Illinois.

***NOTE:** The corporation should not name someone as its registered agent until that person has agreed to act in that capacity. The agent also may be an incorporator, director, officer or employee of the corporation, unless the Articles or by-laws provide otherwise.*

C. Location of Registered Office

The registered office must:

- be located in Illinois; AND
- have a street or road address or rural route and box number; AND
- be identical with the business office of the registered agent.

ARTICLE 3: CORPORATE PURPOSE § 2.10(A), 3.05

The purpose clause is the statement of the character of the business objectives of your corporation. The Business Corporation Act of 1983 permits Illinois corporations to be formed for any lawful purpose permitted by this act except banking or insurance.

Your Articles of Incorporation may list one or more specific corporate purposes and/or a general statement of corporate purpose. The language authorized for the general purpose is as follows:

The transaction of any or all lawful purposes for which corporations may be incorporated under the Illinois Business Corporation Act of 1983.

A business corporation can become a Benefit Corporation under the Benefit Corporation Act (805 ILCS 40) by including in its corporate purpose the following statement: "The corporation is a benefit corporation in accordance with the provisions of Article 2 of the Benefit Corporation Act and has a purpose of creating general public benefit."

A. Restrictions

In addition to the requirements of the Business Corporation Act of 1983, other statutes, rules and regulations can influence the wording of your corporate purpose. Many businesses and professions may be restricted as to permissible corporate purposes or may be required to use precise language. If you are in doubt about your situation, consult an attorney.

B. Professional Service Corporations - Purpose (see page 11)

C. Medical Corporations - Purpose (see page 13)

D. Powers

Corporation powers are different from corporation purposes. Purposes are the objectives of a corporation – what it is organized to do. Powers are the means by which the purposes may be achieved – the ways permitted by statute for a corporation to accomplish its objectives.

All corporations have all powers set forth in the Business Corporation Act of 1983. The Articles of Incorporation do not need to state powers. Do not state that your corporation has the powers of a natural person.

ARTICLE 4: AUTHORIZED SHARES

When drafting the Articles of Incorporation, you will need to make key decisions about the share structure of your corporation, including: classes and number of shares to be authorized and issued; limitation or denial of voting rights and/or cumulative voting rights; specifications of any preferences; and qualifications, limitations, restrictions or special rights.

A. Paragraph 1:

Paragraph 1 lists the name and number of shares of each class of stock your corporation will be authorized to issue.

Class: A class of shares is a group of shares having the same general characteristics. Typically, classes are termed “common” or “preferred” or are given a special designation.

“Common” shares are shares that have no preference over any other shares with respect to the payment of dividends or the distribution of assets on liquidation. This means that the holders of common shares are entitled to a pro rata division of profits or net earnings (*to the extent declared by the board of directors*), and to a pro rata distribution of the net assets of the corporation upon dissolution.

You may create more than one class of common shares through your Articles of Incorporation, provided you clearly set forth all differences in the terms of each class (see *Paragraph 2 on page 5*). Classes of common shares are usually denoted by letter (e.g., *Common, Common A, Common B*) or by description (e.g., *Voting Common, Non-Voting Common*).

“Preferred” shares are those that are entitled to priority in payment of dividends or the distribution of assets on liquidation of a corporation. You may create more than one class of preferred shares through your Articles of Incorporation, provided you clearly set forth the terms and special features of each (see *Paragraph 2 on page 5*). Classes of preferred shares are usually denoted by letter (e.g., *Preferred A, Preferred B*) or by description (e.g., *Cumulative Preferred, Non-Participating Preferred*).

Series: A series is a subunit of a class. Each series has the same general characteristics of the class but varies from other series in one or more specific

business terms. Only special and preferred classes may be divided into series [§6.10].

NOTE: When you provide for “series” of a class, the standard Form BCA 2.10, *Articles of Incorporation*, must be slightly modified. Simply insert the word “series” under Article 4 between the words “Class” and “number of shares authorized.” List your series designations in Paragraph 2.

Number to be Authorized: The number of shares to be authorized means the number of shares within each class your corporation will have the power to issue. This number remains the same unless and until increased or reduced by amendment. Your corporation is not required to issue all its authorized shares, but some must be issued. The Business Corporation Act of 1983 sets no minimum requirements or maximum limits on the number of authorized shares. When deciding how many shares to authorize, you may want to consider not only your immediate needs but also how many shares your corporation will need for issuance in the foreseeable future.

B. Paragraph 2:

Paragraph 2 lists the terms, rights and special features of each class or series. This paragraph may be left blank only when you have just one class of shares, unless you desire to place some limitation or qualification on this class. **When there will be two or more classes, Paragraph 2 must be completed.**

Common Shares: When Paragraph 1 lists two or more classes of common shares, the differences between these classes must be described. For example, classes may vary with respect to voting rights (e.g., *one class may be voting shares and another may be non-voting*); management terms (e.g., *each class may elect only specific directors*); transferability rights (e.g., *one class may have no restrictions while another is subject to a right of first refusal*); or preemptive rights.

NOTE: No class of common shares may be given a preference over any other class of shares with respect to the payment of dividends or the distribution of assets on dissolution.

Preferred Shares: When Paragraph 1 lists one or more classes of preferred shares, all preferences, qualifications, limitations, restrictions and special or relative rights with respect to each preferred class must be described. The most usual preference is a right to receive dividends before any dividends are paid to the holders of the common shares; however, there are many terms and rights that qualify as “preferred” provisions. Some of these mentioned in the Business Corporation Act of 1983 include, but are not limited to, the following:

- Whether the corporation shall have the right to redeem shares at a price not exceeding that fixed by the Articles of Incorporation [§6.05(a)];
- Whether the rights to dividends are cumulative, partially cumulative or non-cumulative [§6.05(b)];
- Whether and to what extent any class shall have preference as to the payment of dividends [§6.05(c)];

- Whether and to what extent any class shall have a preference as to assets on liquidation [*§6.05(d)*];
- Whether shares of any class shall be convertible into shares of any other class or into shares of any series of the same or any other class; and the rate of such conversion right [*§6.05(e)*].

If the corporation has authorized either preferred or special classes of stock in its Articles of Incorporation, but it does not propose to issue any of these shares at the time of filing and is undecided as to the variations in the relative rights and preferences of these classes, the following statement must be entered in Paragraph 2:

The Preferred or Special stock shall be issued in one or more series by authority vested in the Board of Directors, with such voting powers, designations, preferences, rights, qualifications, limitations or restrictions thereof as shall be set forth in a Statement of Resolution to be filed pursuant to Section 6.10 of the Illinois Business Corporation Act.

Other Share Provisions: Other provisions that may be used for any class or series, whether common, preferred or otherwise, but which may only be fixed by the Articles of Incorporation, include:

- A provision limiting or eliminating the cumulative voting rights, in all or specified circumstances, of any class, classes or series or shares [*§7.40(b)*];
- A provision superseding any provision of the Business Corporation Act of 1983 that requires for approval of corporate action a two-thirds vote of the shareholders [*§2.10(b) (2) (v)*];
- A provision granting to shareholders the preemptive right to acquire unissued shares of the corporation, or securities of the corporation convertible into or carrying the right to subscribe to or acquire shares [*§6.50*];
- A provision limiting or eliminating voting rights or providing special voting rights as to any class, classes or series of shares [*§7.40(b)*];
- A provision setting requirements for a quorum of shareholders if other than a majority, but not less than one-third of the shareholders [*§7.60*];
- A provision authorizing the election of all or a specified number or percentage of directors by the holders of one or more classes or series of shares [*§. 8.10(f)*];
- A provision prohibiting the reissuance of shares acquired by the corporation;
- A provision making class voting applicable to certain amendments or other acts of the corporation that are to be voted upon by the shareholders [*§10.25*];
- A provision to elect to become a close corporation [*BCA 2A.10*] (see page 14).

C. Issued Shares

Issued shares are shares that have been subscribed and paid for. The holders of the issued shares are deemed to be the owners of the corporation.

When a corporation is started, each owner of the business will normally be issued a number of shares that represents his/her proportionate interest in the

corporation. The total number of shares proposed to be issued initially should be stated in Article 4. Any or all of the authorized shares listed may be issued.

Itemize the shares to be issued by “class” and “series” (if any). (See Article 4 on pages 4-7 for a discussion of these terms.) When the Department of Business Services files your Articles of Incorporation, all the shares proposed to be issued in Article 4 will be considered to be issued, and no further report to the Secretary of State regarding these shares will be required.

NOTE: Plan carefully to avoid misstatements or errors. Mistakes can be corrected only by amending the Articles of Incorporation or, in certain instances, by filing a Statement of Correction.

D. Consideration

Consideration is what is paid into the corporation in exchange for the issued shares. Each holder of shares must exchange either cash, property, promissory notes, or a combination of these items for the shares the corporation issues to them. Under Article 4, state the value of the entire consideration to be received in U.S. currency.

The Business Corporation Act of 1983 does not set any minimum amount that must be paid in; however, the consideration cannot be zero (∅). In the absence of fraud, the judgment of the board of directors or of the shareholders as to the value of the consideration shall be conclusive.

The consideration to be received (*less expenses of issuance*) is deemed to be the PAID-IN CAPITAL of the corporation.

Other Articles: Optional Provisions

Although completion of just the first four Articles will satisfy statutory requirements, there are many other provisions that may be included in the Articles of Incorporation. Some items may only be stated in the Articles, while others may be set forth in the by-laws or in separate agreements. Legal advice should be sought to help you decide whether or not to place any optional provisions in the Articles and to help you properly phrase these provisions.

ARTICLE 5: FIRST BOARD OF DIRECTORS

A. Optional Article — May be Left Blank

The number of initial directors may be fixed either in the Articles of Incorporation or at the organizational meeting of the incorporators. The names and addresses of the persons who are to serve as the initial directors also may be set forth in the Articles. If you name the first board of directors in the Articles, you will not have to call an organizational meeting of the incorporators. As soon as the Articles are filed by the Department of Business Services, the board may proceed with the business of the corporation.

ARTICLE 6: ALLOCATION FACTOR

A. Optional Article — May be Left Blank

Items (a) through (d) are to be completed only if the corporation intends to own

property outside the state of Illinois and/or will transact business outside of Illinois.

Before a corporation can own property and/or transact business in another state, compliance with that state's laws pertaining to the licensing of a corporation incorporated in another state must be met.

This article is used to establish your corporation's initial "allocation factor" — the percentage of your corporation's property and business that is estimated to be in Illinois. ALL franchise taxes payable during your corporation's first taxable year are based on this percentage of the paid-in capital.

When Article 6 is left blank, the Business Corporation Act of 1983 provides that all franchise taxes will be computed on the basis of the entire paid-in capital. Thus, 100 percent of the paid-in capital is taxable when all property and business are in Illinois or when Article 6 is left blank.

OTHER ARTICLES: OPTIONAL PROVISIONS

If other provisions are to be added to the Articles of Incorporation, number them consecutively with the last article completed on Form **BCA 2.10** (*i.e., if Article 5 was the last article completed, the next should be Article 6*).

Unless otherwise indicated, any of the following provisions may be added to the Articles or placed in the by-laws. This list is illustrative only and is not intended to be exclusive:

- Provisions with respect to managing the business and regulating the affairs of the corporation [*§2.10(b) (2) (i)*];
- Provisions with respect to defining, limiting and regulating the affairs of the corporation [*§2.10(b) (2) (ii)*];
- Provisions fixing the corporation's duration, if other than perpetual [*§2.10(d). By the Articles only.*];
- A provision reserving to the shareholders the power to make, alter, amend or repeal the by-laws [*§2.25. By the Articles only.*];
- A provision limiting or denying the power of the board of directors to provide that some or all of any or all classes and series of the corporation's shares shall be uncertificated [*§6.35*];
- A provision limiting or denying the authority of the shareholders to take action by written consent without a formal meeting [*§7.10(a). By the Articles only.*];
- Provisions defining qualifications for directors or limiting the authority of the board of directors to establish compensation to be paid to directors for services as directors, officers or otherwise [*§8.05(b) (c)*];
- Provisions fixing the number of directors, establishing a variable range for the size of the board, or setting "staggered" terms for directors [*§8.10(a) (b) (c)*];
- A provision authorizing the election of all or a specified number or percentage of directors by the holders of one or more specified classes or series of shares [*§8.10(f). By the Articles only.*];
- Provisions setting the size of quorums of the board of directors or prohibiting meetings of the board or committees of the board from being held through

the use of conference telephone or other telecommunications equipment [§8.15(a) (b) (c) (d)];

- Provisions authorizing the board of directors to create committees of the board and specifying the powers such committees may exercise [§8.40(a) (c)];
- A provision specifically prohibiting the board of directors from acting by unanimous written consents without holding formal meetings [§8.45];
- Provisions authorizing indemnification of or the purchasing of insurance for present or former directors, officers, employees or agents of the corporation [§8.75];
- A provision entitling shareholders to dissent and obtain payment for their shares with respect to specific corporate actions that require the vote of the shareholders [§11.65(a) (4)].

THE INCORPORATORS: SIGNATURES

A. Who may be an Incorporator?

A corporation may be formed by one or more incorporators. An incorporator shall be either:

- a natural person (*age 18 or older*);
- a corporation (*domestic or foreign*).

B. Signatures

Each individual acting as an incorporator must sign the Articles of Incorporation on the back page. **Print or type the incorporator's name below his/her signature.** Also, list an address for each incorporator.

If another corporation acts as an incorporator, the Articles must show its exact name and state of incorporation. The Articles of Incorporation must be signed by a duly authorized officer of the corporation acting as the incorporator. Print or type the officer's name and title under his or her signature.



FILING THE ARTICLES OF INCORPORATION

A. What to File

Deliver to the Department of Business Services:

- Articles of Incorporation (*in duplicate, one originally signed document and a second copy, which may be an original, a carbon or a photocopy*);
- *Check for payment of the initial fees (certified check, cashier's check, money order, Illinois attorney's check or certified public accountant's check).*

B. Where to File/Expedited Service

All Articles of Incorporation, including fees, must be mailed to the Department of Business Services office in Springfield for review. The department offers the review and, if approved, the filing of Articles of Incorporation on an expedited basis within 24 hours of receipt in either the Springfield or Chicago office. Pursuant to the provisions of the Illinois Business Corporation Act, all requests for expedited service must be made **in person**, and accompanied by a separate expedited service fee of \$100, payable to Secretary of State, in addition

to the appropriate filing fee (see paragraph C below). Any Articles of Incorporation that is hand delivered to either the Springfield or Chicago office and not requesting expedited service will be reviewed on a routine (non-expedited) basis in the Springfield office.

When final approval has been given, the Articles of Incorporation will be stamped “filed” with the date thereof (i.e., the date of incorporation) and will be assigned an eight-digit “file number” by the Secretary of State’s office. One copy of the Articles of Incorporation will be returned to the incorporators or their representative.

FILING FEES

There are two fees required at the time of filing. The initial franchise tax is based upon the “Consideration To Be Received” for the shares to be issued. The filing fee is a fixed amount.

A. Franchise Tax [§§ 15.35, 15.40, 15.45]

The rate of the franchise tax is 15/100 of 1 percent of the Consideration To Be Received, with a **minimum** of \$25. You may compute the exact amount due by multiplying the Consideration To Be Received by .0015.

B. Filing Fee [§15.10 (a)]: \$150

C. Fee Schedule

Following is a schedule of the total fees due on incorporation (franchise tax plus filing fee). This schedule is applicable when all property and business will be in Illinois. THESE AMOUNTS ARE EXAMPLES ONLY. The exact amount due depends on the total Consideration To Be Received. If the exact consideration for your corporation is not represented on this schedule, you may have the fees computed by the Department of Business Services. Please call 217-782-9522 in Springfield or 312-793-3380 in Chicago.

FEE SCHEDULE (EXAMPLES ONLY)							
Consideration To Be Received	\$500	\$1,000	\$5,000	\$10,000	\$25,000	\$50,000	\$100,000
Total Fees Due	\$175	\$175	\$175	\$175	\$187.50	\$225	\$300



ORGANIZING THE CORPORATION

There is much more to being a corporation than simply filing the Articles of Incorporation with the Secretary of State. This first step will technically create a corporation, but additional steps must be taken before your corporation will be entitled to recognition as a distinct legal entity. Consult your attorney if you have any questions about these formalities.



PROFESSIONAL SERVICE CORPORATIONS *Illinois Compiled Statutes 1992, Chapter 805, Act 10 et seq.*

A “professional service corporation” is one organized under the Professional Service Corporation Act **solely** for the purpose of rendering one category of professional service or related professional services. **Professional service** is any personal service that requires as a condition precedent to the rendering thereof the obtaining of a license from a state agency, the U.S. Patent Office or the Internal Revenue Service of the U.S. Treasury Service. **Related services** that are permitted are a combination of two or more professions as defined by Section 3.6 of the Professional Service Corporation Act [*§10/3.6*].

OWNERS AND OFFICERS

ALL shareholders, directors, officers, agents and employees (*other than ancillary personnel or the corporate secretary*) **must** be licensed to render the same professional service or related professional services for which the corporation is organized [*§ § 10/7, 10/11*].

If the corporation has only one shareholder, it need have only one director who shall be the shareholder and who may also serve as president, secretary and treasurer. If the corporation has only two shareholders, it need have only two directors who shall be the shareholders, and they shall fill the offices of president, vice-president, secretary and treasurer between them [*§ 10/10*].

No shareholder shall enter into a voting trust agreement or any type of agreement vesting another person with the authority to exercise the voting powers of any of his or her stock [*§ 10/11*].

INCORPORATION

A professional corporation may be incorporated by one or more persons licensed pursuant to the respective profession or an Illinois attorney by filing the Articles of Incorporation (*Form BCA 2.10*) with the Department of Business Services and by following the procedures for incorporation of businesses described in this booklet (*see pages 1-10*).

CORPORATE NAME

The name of the corporation must comply with all requirements of the Business Corporation Act of 1983 (*see Article 1: Corporate Name on pages 1-2*), **except** that the name must **end** with one of the following words or abbreviations:

“CHARTERED,” “LIMITED,” “LTD.” “PROFESSIONAL CORPORATION,” “PROF. CORP.,” or “P.C.” (§ 10/9).

If the true corporate name does not include the name of one or more of the shareholders, or if the true corporate name continues to use the name of a deceased shareholder, the corporation must file under the Assumed Business Name Law with the County Clerk of the county where its principal place of business is located (§ 10/9).

Professional service corporations may adopt one or more assumed corporate names, in accordance with the provisions of the Business Corporation Act of 1983.

PURPOSE CLAUSE

The purpose clause in the Articles of Incorporation (*Article 3 on Form BCA 2.10*) should be stated as follows [§ § 10/6, 10/12]:

PROFESSIONAL CORPORATION: To practice the profession of _____, rendering that type of professional service and services ancillary thereto.

PROFESSIONAL service will be rendered from the following address(es):

SHARE PROVISIONS

A. Redemption

If not provided for in the by-laws or a separate agreement, the Articles of Incorporation shall provide for the purchase or redemption of the shares of any shareholder upon his or her death or disqualification.

LICENSE OR CERTIFICATE OF REGISTRATION

After incorporating with the Secretary of State, the **corporation** must be registered with the appropriate regulatory authority of the state or federal government [§10/12].

A. License

For those professions licensed by the Illinois Department of Professional Regulation, deliver to that agency the following (*see page 22*):

- Completed **Application For a Medical or Professional Service Corporation License**;
- Photocopy of the Articles of Incorporation;
- **List** of all incorporators, shareholders, directors, officers;
- If the corporate name is a fictitious name, submit **evidence of filing** with the Office of the County Clerk in accordance with the Assumed Business Name Law; and
- **Check** for \$50 filing fee.

B. Certificate of Registration (*attorneys*)

For a corporation organized to practice law, deliver to the Illinois Supreme Court the following:

- Duplicate copies of completed **Application for Certificate of Registration to Engage in the Practice Of Law as a Professional Corporation**; and
- **Check** for \$50 filing fee.



MEDICAL CORPORATIONS

Illinois Compiled Statutes 1992, Chapter 805, Act 15 et seq.

A “medical corporation” is one organized under the Medical Corporation Act **solely** for those individuals licensed pursuant to the Illinois Medical Practice Act.

OWNERS AND OFFICERS

ALL shareholders, directors and officers of the corporation must be duly licensed pursuant to the Medical Practice Act. No person who is not so licensed shall have any part in the ownership, management or control of the corporation, nor may any proxy to vote the shares of the corporation be given to any person not so licensed [*§ 15/2, 15/13*].

INCORPORATION

A medical corporation may be incorporated by one or more persons licensed pursuant to the Medical Practice Act or an Illinois attorney by filing Articles of Incorporation (*Form BCA 2.10 in duplicate*) with the Department of Business Services, and by following the procedure for incorporating businesses as described in this booklet (*see page 1*).

CORPORATE NAME

The name of the corporation must comply with all the requirements of the Business Corporation Act of 1983 (*see Article 1: Corporate Name on page 1*), **except** that the name must **end** with one of the following words or abbreviations: “CHAR-TERED,” “LIMITED,” “LTD.,” “SERVICE CORPORATION,” or “S.C.” [*§15/4*].

If the true corporate name does not include the surname of any present or former shareholder, the corporation must record the true corporate name and the names of the shareholders with the Recorder of Deeds of the county in which the corporation is located or has its principal office (*§15/4*).

Medical corporations may adopt one or more Assumed Corporate Names, in accordance with the provisions of the Business Corporation Act of 1983.

PURPOSE CLAUSE

The purpose clause in the Articles of Incorporation (*Article 3 on Form BCA 2.10*) should be stated as follows [*§15/2*]:

MEDICAL CORPORATION: To own, operate and maintain an establishment for the study, diagnosis and treatment of human ailments and injuries, whether physical or mental, and to promote medical, surgical and scientific research and knowledge; provided that medical or surgical treatment, advice or consultation will be given by employees of the corporation only if they are licensed pursuant to the Medical Practice Act.

SHARE PROVISIONS

If not provided for in the by-laws, the Articles of Incorporation shall state a price or a method of determining a fixed price at which the corporation or its shareholders may purchase the shares of a deceased shareholder or a shareholder no longer qualified to own shares in the corporation. In the absence of such a provision in either the by-laws or the Articles, the provisions of the Medical Corporation Act shall determine the price [*§15/6*].

LICENSING

After incorporating with the Secretary of State, the **corporation** must be registered with the Illinois Department of Professional Regulation [§15/5]. You must submit to that agency the following (*see page 21 for address*):

- Completed **Application for a Medical or Professional Service Corporation License**;
- Photocopy of the Articles of Incorporation;
- **List** of all incorporators, shareholders, directors and officers;
- If the corporate name is a fictitious name, attach **evidence of filing** with the Recorder of Deeds; and
- **Check** for \$50 filing fee.



CLOSE CORPORATIONS

Article 2A. of the Business Corporation Act.

The term “close corporation” has both a common meaning and a statutory meaning. As commonly used, any corporation owned, controlled and managed by a small group of individuals may be called a **close corporation**. As used in the Illinois Revised Statutes, however, only corporations organized as or electing to become a close corporation are **close corporations** and are entitled to the benefits and exposed to the limitations of this section.

All provisions of the Business Corporation Act of 1983 apply to all close corporations organized under Article 2A, except insofar as Article 2A otherwise provides. Before you incorporate your business, consult your attorney about the pros and cons of being a close corporation.

ARTICLES OF INCORPORATION

A close corporation is incorporated in the same manner as other corporations (*see page 1*), and the Articles of Incorporation must meet all the requirements of the Business Corporation Act of 1983 (2A.05). Form **BCA 2.10** may be used, but it must contain certain provisions required by Article 2A.

HEADING

The Articles must contain a heading stating the name of the corporation and that it is being organized as a close corporation.

OPTIONAL PROVISIONS

The Articles also may contain provisions setting forth:

- That the business of the corporation shall be managed by the shareholders rather than by a board of directors (2A.45);
- A provision granting to any shareholder, or to the holders of a specified number or percentage of shares of any class, an option to have the corporation dissolved at will or upon the occurrence of any specified event or contingency (2A.50).

WRITTEN SHAREHOLDER AGREEMENTS (2A.40)

Any phase of the affairs of the corporation may be the subject of a written agreement entered into by **all** shareholders, including, but not limited to:

- Management of the business of the corporation;
- Declaration and payment of dividends or division of profits;
- Who shall be directors or officers or both;
- Voting requirements of directors or shareholders, including a unanimity requirement;
- Restrictions on transfer of issued shares;
- Employment of shareholders by the corporation; and
- Arbitration of issues as to which shareholders or directors are deadlocked.



REASONS SUBMITTED DOCUMENTS ARE RETURNED

GENERAL — ALL DOCUMENTS

- All items or Articles on the document have not been completed. Incomplete documents cannot be approved.
- The fees and taxes submitted are not in the correct amount; the check is not signed, is more than 90 days old, and/or is not made payable to Illinois Secretary of State.
- The Department of Business Services is unable to decipher the signatures on the document, and the names have not been typed or printed below the signatures.
- The wrong document is submitted for the transaction being reported. **Forms printed before July 1, 1984, are obsolete.**
- The correct number of copies of the document is not submitted. **Make sure whether one or two copies are required.**

NAMES — ARTICLES OF INCORPORATION, NAME RESERVATIONS

- The name chosen is not distinguishable from a name already on file and thus is not available for use.
- The corporate name contains a word that has a restricted use and that restriction has not been satisfied (i.e., the words “engineering,” “trust”).
- The name does not contain one or more corporate designators, i.e., Inc., Corp. (*not applicable to Assumed Corporate Names*).
- The name implies a professional service and the corporation is not organizing under the Professional Service Corporation Act or the Medical Corporation Act.

ARTICLES OF INCORPORATION

- See all points above and on previous page.
- Registered Offices must be a street address (P.O. Box numbers alone are not acceptable).
- The purpose clause contains provisions that are not acceptable, i.e.:
 - The purpose is too broad. **The broadest language authorized by statute must reference the Business Corporation Act of 1983** (*see page 3*).

2. The purpose indicates the practice of a profession. Professional services by corporations are governed by the Professional Service Corporation Act and the Medical Corporation Act (*see pages 11-14*).
 3. The purpose clause provides for the “designing of buildings,” which has been interpreted as the practice of architecture and engineering.
 4. The purpose clause provides for the “designing of structures, objects, or systems,” which has been interpreted as the practice of professional or structural engineering.
 5. The purpose clause provides for the “discounting of bills and notes or the buying and selling of bills of exchange.” Both acts are prohibited by statute.
- D. The number of shares to be issued is not listed, or the number of shares proposed to be issued of any class of stock is greater than the number of authorized shares of that class.
- E. Incorporators’ names are not legibly typed or printed, or addresses of incorporators are not shown.
- F. Payment of fees was not in acceptable form.



OTHER FILINGS

You and your corporation are responsible for and obligated to contacting the various federal, state and local governmental agencies with which corporations must file. Do not expect the proper agencies to contact you. Act promptly after incorporating because failure to file, register or report may subject you and/or your corporation to fines or other penalties.

Determining which agencies must be contacted is not an easy task. Some businesses are more regulated than others, and some local governments are more restrictive than others. You may have to analyze statutes and ordinances, call or write many agencies, or consult professionals such as your lawyer or accountant.

This booklet does not attempt to explain or list all government agencies. However, some of the more frequently contacted agencies are listed below. (*For addresses and telephone numbers, see pages 20-21.*)

FEDERAL AGENCIES — INTERNAL REVENUE SERVICE

A. Federal Identification Number

After incorporating, obtain Form SS-4 from the Internal Revenue Service (IRS) to apply for a **Federal Employer Identification Number** (FEIN). This number has been called the corporation’s Social Security number and is a key reference number used by many government agencies.

B. S Corporations

If your corporation chooses not to be taxed as a corporation, obtain Form 2553

from the IRS to make an election as an “S Corporation.” Consult your attorney or accountant for help in deciding whether this option will benefit you and your corporation.

STATE AGENCIES

A. Securities

Although authorized by the Articles of Incorporation, shares cannot be sold except in compliance with the Illinois Securities Law of 1953. Unless exempt, shares must be registered with the **Secretary of State’s Securities Department**.

B. Trademarks, Service Marks

Contact the **Trademarks Section** of the **Secretary of States Department of Business Services**.

C. Sales Tax

If you plan to retail, your corporation will need a retailer’s occupation tax number. If you plan to wholesale, your corporation will need a resale certificate number. Contact the **Sales Tax Division** of the **Illinois Department of Revenue**.

D. Income Tax

Corporations are subject to all state income tax laws, including withholding taxes. Contact the **Income Tax Division** of the **Illinois Department of Revenue**.

E. Unemployment Compensation

Before your corporation hires employees, obtain an Unemployment Compensation Number from the **Illinois Department of Labor**.

F. Workers Compensation

Contact the **Illinois Industrial Commission**.

G. Private Business and Vocational Schools

Obtain a license from the **Illinois State Board of Education**.

H. Day Care Centers and Nursery Schools

Obtain licenses from the **Illinois Department of Children and Family Services**.

I. Common Carriers and Utilities

Contact the **Illinois Commerce Commission**.

J. Insurance Agencies and Brokerages

Contact the **Illinois Department of Insurance**.

K. Professional Licenses

Contact the **Illinois Department of Professional Regulation**.

L. Attorneys

Contact the **Clerk of the Supreme Court**.

LOCAL AGENCIES

Many counties, cities, towns and villages also require licenses or permits and may restrict advertising, signs, parking and numerous other aspects of operating a business. County and city clerks can often advise you of local ordinances and restrictions.



CORPORATE FORMS AND FEES

ILLINOIS SECRETARY OF STATE
DEPARTMENT OF BUSINESS SERVICES
CORPORATIONS DIVISION
www.cyberdriveillinois.com

Howlett Building
Room 350
Springfield, Illinois 62756
(217) 782-6961

69 W. Washington
Rm 1240
Chicago, Illinois 60602
(312) 793-3380

SCHEDULE OF CORPORATE FORMS AND FEES FOR DOMESTIC & FOREIGN BUSINESS CORPORATIONS

Forms are referred to by Section Numbers of the **Business Corporation Act of 1983**

Form No.	Type of Form	Filing Fee
BCA-1.15	Statement of Correction	\$ 50 *
BCA-1.17	Petition for Refund or Review	\$ 5
BCA-2.10	Articles of Incorporation	\$ 150 ***
BCA-4.10	Application for Reservation of Name	\$ 25
BCA-4.15/4.20	Application to Adopt an Assumed Name	*****
	Application to Change an Assumed Name	\$ 25
	Cancellation of an Assumed Name	\$ 5
BCA-4.25	Registration or Renewal of Name (Foreign)	\$ 50
	Cancellation of Foreign Registration	\$ 25
BCA-5.10/5.20	Statement of Change of Registered Agent and/or Registered Office	\$ 25
BCA-5.15	Notice of Resignation of Registered Agent	\$ 5
BCA-5.25	Affidavit of Compliance for Service on Secretary of State	\$ 10
BCA-6.10	Statement of Resolution Establishing Series	\$ 25
BCA-9.05	Statement of Cancellation of Non-Reissuable Shares	\$ 5
BCA-10.30	Articles of Amendment	\$ 50 *
	Restated Articles of Incorporation	\$ 150 *
BCA-11.25	Articles of Merger, Consolidation or Exchange	\$ 50 per corporation
BCA-11.39	Articles of Merger Between Illinois Corporations and Limited Liability Companies	\$100 *****
BCA-12.20	Articles of Dissolution	\$ 5 *
BCA-12.25	Articles of Revocation of Dissolution	\$ 5 **
BCA-12.45/13.60	Application for Reinstatement of Domestic and Foreign Corporations	\$ 200 **
BCA-13.15	Application for Authority to Transact Business in Illinois	\$ 150 *
BCA-13.40	Application for Amended Authority to Transact Business in Illinois	\$ 25
BCA-13.45	Application for Withdrawal	\$ 25 *
BCA-14.01	Statement of Election to Establish an Extended Filing Month	\$ 25
BCA-14.30	Cumulative Report of Changes in Issued Shares and Paid-in Capital	\$ 5 ****
BCA-14.35	Report following Merger or Consolidation	\$ 5 ****

* Plus applicable franchise taxes, penalties and interest

** Plus annual reports, filing fees, and applicable franchise taxes, penalties and interest

*** Plus applicable franchise tax

**** Plus applicable franchise taxes, penalties and interest

***** Filing fee is \$100, but if merger involves more than 2 corporations, \$50 for each additional corporation.

***** The filing fee to adopt an assumed name is \$150 if the current year ends with either 0 or 5, \$120 if the current year ends with either 1 or 6, \$90 if the current year ends with either 2 or 7, \$60 if the current year ends with either 3 or 8, \$30 if the current year ends with either 4 or 9.

NOTICE: The only forms of payment that may be accepted with the filing of Articles of Incorporation (profit or not for profit), Applications for Authority (profit or not for profit) and Applications for Reinstatement (profit or not for profit) are as follows: certified check, cashiers check, money order, law firm or CPA's check. All payments must be in the exact amount due.

Make checks payable to: **ILLINOIS SECRETARY OF STATE**
CASH CANNOT BE ACCEPTED FOR ANY FILINGS WITH THIS OFFICE

C-147.19



ADDRESSES AND TELEPHONE NUMBERS

SECRETARY OF STATE

Secretary of State
Department of Business Services
501 S. Second St., Rm. 350
Springfield, IL 62756
217-782-6961

Secretary of State
Department of Business Services
69 W. Washington St., Ste. 1240
Chicago, IL 60602
312-793-3380

Secretary of State
Securities Department
421 E. Capital Ave., 2nd Floor
Springfield, IL 62701
217-782-2256

Secretary of State
Securities Department
69 W. Washington St., 12th Floor
Chicago, IL 60602
312-793-3384

www.cyberdriveillinois.com

DEPARTMENT OF REVENUE

Illinois Department of Revenue
Income Tax Division
101 W. Jefferson St.
Springfield, IL 62708
217-782-9488
800-732-8866

Illinois Department of Revenue
Income Tax Division
100 W. Randolph St.
Chicago, IL 60601
800-732-8866

Illinois Department of Revenue
Sales Tax Division
101 W. Jefferson St.
Springfield, IL 62708
217-782-9488
800-732-8866

Illinois Department of Revenue
Sales Tax Division
100 W. Randolph St.
Chicago, IL 60601
800-732-8866

www.revenue.state.il.us/

INTERNAL REVENUE SERVICE (form pick-up only)

Internal Revenue Service
320 W. Washington St., Rm. 611
Springfield, IL 62703
800-829-1040

Internal Revenue Service
230 S. Dearborn St.
Chicago, IL 60609
Attn: Form Services
800-829-1040

All IRS forms and publications may be requested by mail from:

Internal Revenue Service
Forms
P.O. Box 24672
Kansas City, MO 64131

www.irs.ustreas.gov



ADDRESSES AND TELEPHONE NUMBERS (cont.)

ILLINOIS STATE BOARD OF EDUCATION

Illinois State Board of Education
100 N. First St.
Non-Public School Approval
Springfield, IL 62777
217-782-4321

www.isbe.state.il.us

DEPARTMENT OF INSURANCE

Illinois Department of Insurance
Agents/Brokers Section
320 W. Washington St.
Springfield, IL 62767
217-782-6366

www.idfpr.com

DEPARTMENT OF PROFESSIONAL REGULATION

Illinois Department of
Professional Regulation
320 W. Washington St.
Springfield, IL 62786
217-785-0800

Illinois Department of
Professional Regulation
Investigative Unit
100 W. Randolph St.
Chicago, IL 60601
312-814-4500

www.idfpr.com

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission
527 E. Capitol Ave.
Springfield, IL 62706
217-782-2024

Illinois Commerce Commission
160 N. LaSalle St.
Chicago, IL 60601
312-814-2850

www.icc.state.il.us

DEPARTMENT OF LABOR

Department of Labor
Division of Unemployment Insurance
910 S. Michigan Ave., 11th Floor
Chicago, IL 60605
800-247-4984
(Ask for New Employers' Packet)

INDUSTRIAL COMMISSION

Industrial Commission
Workers Compensation
100 W. Randolph St.
Chicago, IL 60601
312-814-6611

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Illinois Department of Children and Family Services
100 W. Randolph St.
Chicago, IL 60601
312-814-6800

400 W. Monroe St.
Springfield, IL 62701
217-785-2509