

Instructions C019i

Application for NEW Authority to Conduct Affairs in Arizona

ARIZONA CORPORATION COMMISSION

Corporations Division
1300 West Washington Street
Phoenix, Arizona 85007
www.azcc.gov
(602) 542-3026



General Information

Apply for new authority. A foreign nonprofit corporation that is already authorized in Arizona must apply for new authority to conduct affairs if (1) if it changes its name; (2) if it changes its period of duration; or (3) if it changes its state or country of incorporation. See A.R.S. §10-11504. The A.C.C. has a form for this, C019 Application For New Authority. Use of the A.C.C.'s form is not required. Forms are available on the A.C.C. website, www.azcc.gov/Divisions/Corporations.

What is a foreign corporation? Any corporation that was not created or formed under the laws of the State of Arizona is a foreign corporation.

What is conducting affairs? The applicable statute defines some activities that DO NOT constitute the conducting of affairs within the state. See 10-11501 (nonprofits). Statutes are available on the Arizona Legislature's website, www.azleg.gov, by following the link for Arizona Revised Statutes. The Arizona Corporation Commission does not make determinations under A.R.S. §10-11501 as to what activities do or do not constitute the conducting of affairs, because such a determination requires interpreting the applicable statute in the context of the corporation's particular situation, which involves legal advice. Commission staff cannot give legal advice to the public. It is up to the corporation to determine whether or not its activities require it to seek authority from the Arizona Corporation Commission. If the corporation is in doubt, it should seek advice from an attorney. Commission staff cannot tell you whether or not the corporation should file an Application for New Authority.

What if the corporation operates in Arizona without authority? The full consequences of conducting affairs in Arizona without authority are set out in A.R.S. § 10-11502 (nonprofits). Statutes are available on the Arizona Legislature's website, www.azleg.gov, by following the link for Arizona Revised Statutes. Among other things, a foreign

corporation that conducts affairs without authority is liable for fees, penalties associated with the failure to pay fees, and a penalty of up to one thousand dollars.

What are the corporation name requirements? The examiner will determine if the corporation name to be used complies with the statutory requirements, but you can review the name criteria, check for name availability and, if desired, submit a name reservation or name registration application by using our website at www.azcc.gov/divisions/corporations/filings/namingpolicy.asp. Reserving or registering the name is not required. Web access is available to the public at our Phoenix and Tucson offices.

The minimum requirements under Arizona law for the name or fictitious name of a for-profit foreign corporation are that it:

shall contain the word "association", "bank", "company", "corporation", "limited", or "incorporated", or an abbreviation of one of those words. If the existing corporate name or the fictitious name adopted for use in Arizona does not contain one of those words or an abbreviation of one of those words, then one of those words or an abbreviation of one of those words must be added to it;

AND

shall not contain the words "limited liability company" or "limited company" or the abbreviations "L.L.C.", "L.C.", "LLC" or "LC", in uppercase or lowercase letters.

If the corporation name contains any of the following words, prior written approval must be obtained from the Arizona Department of Financial Institutions before registration is allowed: Bank; Banker; Banking; Banc; Banco; Banque; Credit Union; Deposit; Savings Association; Building Association; Savings and Loan Association; Building and Loan Association; Savings Bank; Thrift; Trust; or Trust Company. See A.R.S. §§ 10-3401 and 10-11506.

The *nonprofit* corporate name must satisfy the requirements of A.R.S. §§ 10-3401, 10-3301, and 10-11506 and must not conflict with the requirements for professional corporations (A.R.S. § 10-2215) or other corporations (A.R.S. §§ 10-1506 and 10-401). Statutes are available on the Arizona Legislature's website, www.azleg.gov, by following the link for Arizona Revised Statutes. Note that other requirements may apply if you are forming a nonprofit corporation under Chapter 19 of Title 10, Arizona Revised Statutes (cooperatives).

Fictitious name. If a foreign corporation's name is not available, it may use a fictitious name if it attaches to the Application For New Authority a corporate resolution adopting a fictitious name. Such a resolution must be approved by the board of directors and certified by its secretary (for-profits) or certified by a duly authorized officer (nonprofits). See A.R.S. §10-11506.

What does "duration" mean?

"Duration" means the life span of the corporation. The original Articles of Incorporation and any amendments thereto should indicate if the corporation is intended to exist for only a certain number of years or if its existence is intended to be forever or perpetual.

What is a Statutory Agent?

A Statutory Agent, often called a "registered agent," is an individual or a business entity that the corporation appoints in Arizona for the purpose of accepting service of process (lawsuit papers or legal documents) for the corporation. The agent is called a "statutory" agent because a statute requires that the corporation appoint someone for this purpose. See A.R.S. §§ 10-1507, 10-11507. If, for example, a lawsuit is filed against the corporation, the Statutory Agent will be the one who is served (receives the papers on behalf of the corporation), and then the Statutory Agent should give the papers to the corporation. Note that the law requires that the corporation maintain a statutory agent with a valid address on the records of

the Arizona Corporation Commission at all times, and the failure to do so will subject the corporation to being administratively revoked. See A.R.S. §§ 10-1530, 10-11530. Official notices from the Arizona Corporation Commission will be sent to the statutory agent's address.

Who can be the Statutory Agent?

A Statutory Agent can be an individual, or an Arizona corporation or LLC, or a foreign corporation or LLC that is authorized to transact business in Arizona. A corporation cannot be its own Statutory Agent – it must appoint someone apart from itself. For example, the corporation can appoint one of its directors or officers in his or her capacity as an individual as the statutory agent, but cannot appoint the corporation itself as the statutory agent.

If an individual is appointed as the statutory agent, that individual must be a permanent, full-time resident of the State of Arizona and must have a permanent, full-time physical or street address in the State of Arizona. The mailing address, if any, of that individual statutory agent must also be in Arizona.

The statutory agent must accept the appointment in writing. The statutory agent can accept the appointment by completing and submitting the Statutory Agent Acceptance form M002 found on our website at: <http://www.azcc.gov/divisions/corporations/forms/formsindex.asp>. If the statutory agent is an entity, an authorized agent of that entity can sign the acceptance. An authorized agent is anyone given authority to sign for that entity.

Is publication of the Application for New Authority required? Yes. See A.R.S. §10-11503. DO NOT PUBLISH UNTIL THE COMMISSION APPROVES THE DOCUMENT FOR FILING. The approval letter you will receive from the Arizona Corporation Commission will contain information on how to publish.

What other documents must be submitted? You must attach to or submit with the Application for New Authority the following documents:

- (1) Certified copies of any amendments to the corporation's original articles of incorporation that are certified not more than 60 days before

delivery to the Arizona Corporation Commission; and

- (2) If applicable, approval letter from either the Arizona Department of Insurance or the Arizona Department of Financial Institutions (see the section on name requirements under General Information).

Filing fee. The filing fee is \$175.00. For expedited processing (read the paragraph below on processing time), add \$35.00 to the filing fee. All fees are nonrefundable. See A.R.S. §10-3122.

Penalties. If you are submitting an application for new authority, you may owe penalties if any amendments to the articles of incorporation, restated articles with amendments, or merger documents submitted with the Application are dated more than 60 days before their delivery to the Arizona Corporation Commission. Foreign corporations are obligated by statute to submit to the A.C.C. within 60 days of filing in the state or country of incorporation any amendments or mergers affecting the foreign corporation's articles of incorporation. See A.R.S. §10-11504. If the documents are older than 60 days before their delivery to the A.C.C., then the foreign corporation owes a penalty of \$100.00 in addition to any other fees or penalties. See A.R.S. §10-3122.

Processing time. Processing times are posted on our website each Monday at www.azcc.gov/Divisions/Corporations. For expedited (faster) processing, payment of the expedite fee plus payment of the filing fee must be submitted. See A.R.S. §10-3122. The expedite fee is \$35.00. See Decision No. 68008, July 22, 2005, Docket No. AC-00000A-05-0488. The Arizona Corporation Commission does not currently offer same day or next day service.

Instructions

Number 1. Only nonprofit corporations are required to submit the Application for New Authority. For-profit corporations may need to submit Articles of Amendment to Application for Authority, but will not submit this form (CO19). Check the box to indicate the corporation is a nonprofit corporation.

Number 2. Give the exact or true name of the foreign corporation in its state or country of incorporation, including exact spelling, punctuation, and any corporate identifier such as Inc. or Incorporated, etc. The true name will be called the "foreign name" on the Arizona Corporation Commission system. Please refer to "What are the name requirements" under the General Information section above.

Number 3. The foreign corporation must identify the name it will use in Arizona by checking one of the boxes under number 3. One box must be checked. If no boxes are checked, the document will be rejected. If the foreign corporation's true name is available in Arizona and if that name complies with statutory requirements, then the corporation must use that name. A fictitious name can be used only if the corporation's true name is not available in Arizona. Refer to "What are the name requirements" under the General Information section above for more information.

Number 3.1. If the foreign corporation's true name from its state or country of incorporation is available for use in Arizona and meets the statutory requirements, then the corporation must use that name and must check the box in number 3.1.

Number 3.2. If the foreign corporation's true name from its state or country of incorporation is not available for use in Arizona, then the corporation may adopt a fictitious name. The corporation should check the box in number 3.2 and then list the fictitious name in 3.3. If the box in 3.2 is checked, the corporation must provide a corporate resolution adopting a fictitious name. Such a resolution must be approved by the board of directors and must be certified by a duly authorized officer (nonprofits). See A.R.S. §10-11506. The document will be rejected if the resolution is not submitted with the Application for Authority.

Number 4. List the state or country in which the foreign corporation is incorporated (where it was created or formed).

Number 5. List the date on which the foreign corporation was incorporated

(created or formed) in its state or country of incorporation.

Number 6. The information provided in number 6 must match exactly the corporation's original articles of incorporation and any amendments thereto. If the corporation's life period or duration is perpetual (forever), do not check any boxes in number 6. If the corporation's life period or duration is not perpetual, check the appropriate box and fill in the blank next to that box. If a box is checked but the corresponding blank is not filled in, the document will be rejected.

Number 7. Leave number 7 blank unless the corporation has some limitations on its purpose. If the corporation has limitations on its purpose, then describe those limitations in the space provided.

Number 8. Do not leave number 8 blank. Provide a short description of the type of affairs the corporation intends to conduct.

Number 9. The principal office address must be a street or physical address and must be in the state or country of incorporation. If the corporation is not required to maintain an address in its state or country of incorporation, then it must provide the street address of its registered agent (agent for service of process) in its state or country of incorporation.

Number 10. The Arizona known place of business (KPB) address must be a street address in Arizona, and it can be the same as the Arizona statutory agent's street address. *See A.R.S. §10-11507. The address will be viewable by the public on the internet.* If the KPB address is the same as the statutory agent's street address, check the "yes" box and continue with number 11, and do not list any address under number 10. If the KPB is not the same as the statutory agent's street address, check the "no" box and provide a street address in number 10 by completing all address blanks that are not marked as optional. Note that the corporation is required to maintain a valid KPB in the records of the Arizona Corporation Commission at all times, and failure to do so will subject the corporation to being administratively revoked. *See A.R.S. §10-11530.*

Number 11. Refer to the sections under General Information on "What is a Statutory Agent" and "Who can be the Statutory Agent."

Number 11.1. List the name of the person appointed as the Arizona statutory agent – either an individual or entity, not both. If the statutory agent is an entity, you can put the name of a person to whom correspondence will be directed on the "Attention" line directly underneath the statutory agent name line. Putting a name in the "Attention" line will NOT change the identity of the statutory agent. The name in the "Attention" line simply becomes part of the address. Provide a street address for the statutory agent directly underneath the "Attention" line, completing all blanks that are not marked optional. Corporations are required to maintain a statutory agent at a valid address in the records of the Arizona Corporation Commission at all times, and failure to do so will subject the corporation to being administratively revoked. *See A.R.S. §10-11530.* Note that official notices from the Arizona Corporation Commission will be mailed to the statutory agent at its street address, unless a statutory agent mailing address is provided, in which case notices will be mailed to the statutory agent mailing address.

Number 11.2. The statutory agent named in number 11.1 can have a separate mailing address, which can be a P.O. Box or a personal mail box. If the statutory agent is an individual, the mailing address must be in Arizona. Complete all address blanks that are not marked optional. Corporations are required to maintain a statutory agent at a valid address in the records of the Arizona Corporation Commission at all times, and failure to do so will subject the corporation to being administratively revoked. *See A.R.S. §10-11530.* Note that official notices from the Arizona Corporation Commission will be mailed to the statutory agent at its street address, unless a statutory agent mailing address is provided, in which case notices will be mailed to the statutory agent mailing address.

Number 11.3. The individual or entity named as the Arizona statutory agent must accept the appointment as

statutory agent by signing a statement of acceptance. The statutory agent can independently complete and submit form M002, the Statutory Agent Acceptance form, available on our website at this link: <http://www.azcc.gov/divisions/corporations/forms/formsindex.asp>, however, it is recommended that the acceptance form be delivered simultaneously with the Application for Authority. If no statutory agent acceptance is in the Arizona Corporation Commission system at the time the Application for Authority is examined, the Application for Authority will be rejected.

Number 12. List each and every director of the corporation, giving the name and business address of each director. Fill in all address blanks that are not marked as optional. *Note that the addresses will be viewable by the public on the internet. Do not provide social security numbers or dates of birth.* If more space is needed for listing directors, check the box and complete and attach the Director Attachment form C082. If you check the box but do not attach the Attachment form, the document will be rejected.

Number 13. List each and every officer of the corporation, giving the name and address of each officer. Fill in all address blanks that are not marked as optional. *Note that the addresses will be viewable by the public on the internet. Do not provide social security numbers or dates of birth.* If more space is needed for listing officers, check the box and complete and attach the Officer Attachment form C085. If you check the box but do not attach the Attachment form, the document will be rejected.

Number 14. Check "yes" or "no" to indicate whether the foreign corporation does or does not have members. This information should match exactly the corporation's original articles of incorporation and any amendments thereto.

Signature and Verification

The Application for New Authority may be signed only by one of the following: (1) the Chairman of the Board of Directors, (2) a duly-authorized Officer of the corporation, or (3) a duly-authorized bankruptcy trustee, receiver,

or other court-appointed fiduciary. See A.R.S. §10-3120(F), 10-3140(27).

The document is submitted under penalty of perjury, and the "I accept" box must be checked.

Sign on the line underneath the "I accept" box. Print the name of the individual signing underneath the signature line. If completing the form online, type in the name in both fields. Fill in the date. If the incorporator is an entity, check the appropriate box underneath the printed name line to indicate whether the incorporator is a corporation or a limited liability company, and then give the name of the corporation or LLC, as applicable.

Submit the document

What to submit:

1. Cover Sheet;
2. Application for New Authority;
3. Certified copies of any amendments to the corporation's original articles of incorporation that are certified not more than 60 days before delivery to the Arizona Corporation Commission;
4. If applicable, approval letter from either the Arizona Department of Insurance or the Arizona Department of Financial Institutions (see the section on name requirements under General Information); and
5. Payment.

By Mail. Mail the completed paper document, Cover Sheet, and payment (see below for payment information) to:

Arizona Corporation Commission
Corporations Division
1300 W. Washington St.
Phoenix, Arizona 85007

In Person. Deliver the completed document, Cover Sheet, and payment (see below for payment information) to:

Arizona Corporation Commission
Corporations Division
1300 W. Washington St.
Phoenix, Arizona 85007

will not accept temporary checks, such as those from a new account. We do not accept checks drawn on non-U.S. banks, even if the funds are payable in U.S. dollars.

Money order. If submitting the document by mail or in person, payment by money order is acceptable.

Cash. If submitting the document in person, cash payments are acceptable. Do not mail cash.

Questions

For questions, contact our Customer Contact Section at 602-542-3026, or, within Arizona only, 800-345-5819.

Payment Methods

Credit card. If submitting the document in person, payment by credit card is acceptable. Credit cards cannot be used if submitting by mail. The Arizona Corporation Commission accepts only Visa, MasterCard, or American Express.

Check. If submitting the document by mail or in person, payment by check is acceptable. Checks must be made payable to "Arizona Corporation Commission," with all words spelled out and no abbreviations. Checks must be completely and properly filled out, including the amount sections. Checks that do not have an imprinted or preprinted name and address of the account holder and an imprinted or preprinted check number will not be accepted. Handwritten or stamped names, addresses, or check numbers will not be accepted. For example, we