

CHAPTER 2

DIVISION OF COMMERCIAL RECORDING

Authority

P.L. 1982, c.150, P.L. 1987, c.435, P.L. 1988, c.94 and P.L. 1992, c.124; N.J.S.A. 52:16A-11.

Source and Effective Date

R.1993 d.193, effective April 12, 1993.
See: 25 N.J.R. 901(a), 25 N.J.R. 1884(a).

Executive Order No. 66(1978) Expiration Date

Chapter 2, Division of Commercial Recording, expires on April 12, 1998.

Chapter Historical Note

Chapter 2, Division of Commercial Recording, became effective with Subchapter 1, Expedited Services, adopted as R.1983 d.61, effective March 7, 1983. See: 15 N.J.R. 14(a), 15 N.J.R. 340(d). Pursuant to Executive Order No. 66(1978), Chapter 2 expired on March 7, 1988, and subsequently was adopted as new rules by R.1988 d.202, effective May 2, 1988. See: 20 N.J.R. 522(b), 20 N.J.R. 997(a). Subchapter 2, Preclearance of Documents, and Subchapters 3, Name Availability, were adopted as R.1989 d.89, effective February 21, 1989. See: 20 N.J.R. 2998(a), 21 N.J.R. 452(a). Pursuant to Executive Order No. 66(1978), Chapter 2 was readopted as R.1993 d.193. See: Source and Effective Date. See, also, section annotations for specific rulemaking activity.

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SUBCHAPTER 1. EXPEDITED SERVICES

15:2-1.1 Services which will be provided on an expedited basis

(a) The Department of State shall provide expedited over the counter corporate services for the following requests:

1. Any information contained in the annual report of a corporation or a limited partnership;
2. A certificate of standing, either long form, short form, or certificate listing charter documents;
3. A certified or uncertified copy of document, except trade name filing, filed with the Department of State;
4. A certificate as to the existence or nonexistence of any document, except trade name filings on record with the Division of Commercial Recording;
5. The availability of a corporate name or a limited partnership name;
6. Filing corporate documents or limited partnership documents;
7. The name and address of the registered agent of a corporation or limited partnership;
8. The filing date of a certificate of incorporation for a domestic corporation or the filing date of a certificate of limited partnership or the filing date for a certificate of qualification for a foreign corporation or limited partnership;
9. The name and address of the corporation's or a limited partnership's registered agent;
10. A U.C.C. 1 filing pursuant to N.J.S.A. 12A:9-401 et seq.;
11. A U.C.C. 3 filing pursuant to N.J.S.A. 12A:9-401 et seq.;
12. A U.C.C. 11 search pursuant to N.J.S.A. 12A:9-401 et seq. provided that the U.C.C 11 search shall not exceed 20 filings. Searches over 20 filings can be expedited but may not be completed within the same day.
13. An application to be a Notary Public;
14. An application to renew one's commission as a Notary Public;
15. Certification of an official signature on a document, when the official's signature is on file with the Department of State. This includes the issuances of apostilles.

(b) The Division of Commercial Recording shall provide expedited telephone service for the following requests:

1. The availability of a corporate name or limited partnership name;
2. Whether or not a corporation's certificate of incorporation or authority has been voided or revoked;
3. The name and address of the registered agent of a corporation or limited partnership;
4. The filing date of a certificate of incorporation for a domestic corporation or limited partnership or the filing date for a certificate of qualification for a foreign corporation or limited partnership;
5. The name and address of the registered agent of a corporation or limited partnership which has filed a fictitious/alternate name certificate;
6. The date when the last annual report was filed for a corporation or limited partnership.

Amended by R.1985 d.327, effective July 1, 1985.
See: 17 N.J.R. 897(a), 17 N.J.R. 1670(a).
Amended by R.1988 d.202, effective May 2, 1988.
See: 20 N.J.R. 522(b), 20 N.J.R. 997(a).

15:2-1.2 Definitions

The words and terms used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

"Expedited service" means priority same day service effected in a fast and efficient manner.

"Over the counter services" means:

1. Documents delivered to the Commercial Recording Division, Expedited Services counter by hand or by express mail (Federal Express, etc.);
2. Subject to the approval of the Secretary of State, documents telefaxed or transmitted electronically to the Commercial Recording Division;
3. Information requests made at the Commercial Recording Division Expedited Service counter or any other location designated by the Secretary of State.

"Same Day" means as soon as possible but no later than 8½ business hours from the time the request is received. The business day runs from 8:30 A.M. to 5:00 P.M. on all weekdays other than State holidays.

Amended by R.1988 d.202, effective May 2, 1988.
See: 20 N.J.R. 522(b), 20 N.J.R. 997(a).

15:2-1.3 Exception: computer breakdown

(a) Expedited service shall be rendered as soon as possible but may extend beyond the same day if the computer system utilized by the commercial recording division is down, making response impossible.

(b) Any over the counter service may be rejected by the Secretary of State, unless the submission has a cover sheet issued by the Secretary of State. The Secretary of State may design the cover sheet and the Secretary may from time to time redesign the cover sheet.

Amended by R.1985 d.327, effective July 1, 1985.
See: 17 N.J.R. 897(a), 17 N.J.R. 1670(a).

"Commercial" substituted for "corporate".
Amended by R.1988 d.202, effective May 2, 1988.
See: 20 N.J.R. 522(b), 20 N.J.R. 997(a).

15:2-1.4 Fees for expedited service

(a) Fees for over the counter corporation service shall be as follows:

1. Filing of document:
 - i. Without certified copy; statutory fee plus \$10.00;
 - ii. With copy to be certified: statutory filing fee, certification fee of \$25.00 plus \$10.00.
2. Request for copy of annual report requested at the same time:
 - i. One report—\$2.00 plus \$10.00;
 - ii. Two reports—\$4.00 plus \$10.00;
 - iii. Three reports—\$6.00 plus \$10.00;
 - iv. Four reports—\$8.00 plus \$15.00;
 - v. Five reports—\$10.00 plus \$15.00;
 - vi. Six reports—\$12.00 plus \$15.00;
 - vii. Seven reports—\$14.00 plus \$20.00;
 - viii. Eight reports—\$16.00 plus \$20.00;
 - ix. Nine reports—\$18.00 plus \$20.00;
 - x. Ten reports—\$20.00 plus \$25.00.
3. Certificate of standing:
 - i. Short form standing certificate which includes registered agent and registered office: \$25.00 plus \$10.00;
 - ii. Long form standing certificate which includes registered agent, registered office, incorporators, officers, directors, and number of authorized shares: \$25.00 plus \$10.00.
4. Status report(s) which includes name availability, the name and address of the registered agent, corporation or limited partnership name, whether corporation charter is still valid, and whether the corporation or limited partnership has filed a fictitious/alternate name. Fees for report(s) requested, at the same time are as follows:
 - i. One report—\$5.00 plus \$10.00;
 - ii. Two reports—\$10.00 plus \$10.00;
 - iii. Three reports—\$15.00 plus \$10.00;

ii. An amendment may add more than one new classification for the mark. For each additional class, there will be a charge of \$50.00. For example, if the amendment application lists three new classes, the total filing fee will be \$150.00—\$50.00 base fee plus \$50.00 each for the two additional classes.

4. An owner may cancel a registered mark by:

i. Submitting a type-written or machine-printed application, along with a \$50.00 check made payable to the Secretary of State, to the Trade/Service Mark Section, Division of Commercial Recording (CN 308, Trenton, NJ 08625). The application shall include the following information:

(1) A statement of purpose (for example, Cancellation of a Registered Mark pursuant to N.J.S.A. 56);

(2) The trademark/service mark identification number as assigned by the Secretary of State and listed on the certificate of registration;

(3) The name and business address of the owner (owner name/address on application must match owner name/address shown on the Secretary of State's records);

(4) A request to cancel the mark;

(5) The owner's signature; and

(6) The date of signature.

15:2-4.4 Mark review/rejection criteria and applicant appeals

(a) This section is intended to clarify basic review/rejection criteria and the circumstances that may trigger appeals by persons seeking to file documents with the Secretary of State. Nothing stated here is intended to restrict repeal rights or the broader powers of review and administrative action delegated to the Secretary of State under N.J.S.A. 56:3-13.1 et seq.

(b) The Secretary of State shall review all filing applications for the inclusion of the mandatory information elements and fees listed in the applicable sections of this subchapter, that is:

1. Original registration application—see N.J.A.C. 15:2-4.2;
2. Renewal application—see N.J.A.C. 15:2-4.3(a);
3. Assignment application—see N.J.A.C. 15:2-4.3(b);
4. Renewal application—see N.J.A.C. 15:2-4.3(a);
5. Assignment application—see N.J.A.C. 15:2-4.3(b);
6. Amendment application—see N.J.A.C. 15:2-4.3(c);
7. Cancellation application—see N.J.A.C. 15:2-4.3(d); and
8. Fees—see N.J.A.C. 15:2-4.6.

(c) Any application that is missing mandatory information elements and/or fees shall be rejected and returned for correction. Rejections for missing information or fees are not considered final and therefore should not result in any form of appeal.

(d) For original and renewal applications, the Secretary of State will review the State's Trade Name and Trade Mark/Service Mark data bases to identify possible conflicts (that is, cases in which the proposed mark is duplicative of an active trade name, trademark, or service mark). Any application containing a mark that is duplicative of an active trade name, trademark, or service mark shall be rejected and returned to the applicant along with a listing of the duplicative name(s).

(e) Applicants may resubmit an application rejected for a name conflict. The resubmission shall be accompanied with written arguments and evidence that the names listed in the rejection notice are either abandoned or dissolved, or are not likely to cause confusion, mistakes or deception, under the meanings supplied in N.J.S.A. 56:3. The Secretary of State may:

1. Reject the resubmission and request additional information, setting a time frame for response. Should the applicant fail to respond within the time frame, the application shall be considered abandoned; or

2. Reject the application with notice that the rejection is final.

(f) If the Secretary of State denies a request for reconsideration of a decision refusing registration or renewal of registration of a trademark, denies a request for cancellation of a trademark, or denies a petition for voidance of a trademark, the petitioner may appeal that determination. Such appeal shall be pursuant to the procedures set forth in N.J.S.A. 56:3-1a(4), (5), and (6).

15:2-4.5 Classification

N.J.S.A. 56:3-12 mandates that the Secretary of State adopt a classification scheme that conforms with that adopted by the United States Patent and Trademark Office (USPTO) pursuant to 15 U.S.C. §1112. Accordingly, the USPTO classification scheme is incorporated by reference into these rules. Upon the adoption of these rules, all original and renewed trade/service mark applications filed with the Secretary of State must employ the classification listed in 15 U.S.C. §1112. The previously existing scheme used for marks registered prior to the passage of P.L. 1995, c.171 will remain in effect for those marks until they expire or are cancelled or renewed.

15:2-4.6 Fees

Fees for the various trademark/service mark filing and information retrieval services are as follows:

<u>Service</u>	<u>Fee amount</u>
All Filing Applications (Original Registration, Renewal, Assignment, Amendment or Cancellation Applications)	\$50.00/each
For Each Additional Mark Classification Listed on an Application (Original Registration, Renewal and Amendment Applications Only)	\$50.00/each
Photocopies of Filed Documents	\$1.00/page
Expedited Filing Service (8.5 business hour processing for work delivered over-the-counter to the Trade/Service Mark Section, 820 Bear Tav-	

<u>Service</u>	<u>Fee amount</u>
ern Road, Trenton, NJ—charged in addition to basic filing fees)	\$10.00/transaction (per filing application)
Same Day Filing Service (Same day processing for work delivered over-the-counter to the Trade/Service Mark Section, 820 Bear Tavern Road, Trenton, NJ, by 12:00 P.M. of any work day—charged in addition to basic fees)	\$100.00/transaction (per filing application)