

How Will The Secretary Of State Know A Corporation's Purpose?

Article By:

Keith Paul Bishop

Yesterday I wrote about my concern that about the constitutionality of [SB 1168](#) (Limón). This bill would allow the California Secretary of State to cancel the articles of incorporation or the filing of a statement and designation by a foreign corporation upon reasonable belief of any of the following:

- The entity was created for an unlawful, false, or fraudulent purpose.
- The entity was created to promote or conduct an illegitimate object or purpose.
- The entity was created in bad faith.
- The entity was created for the purpose of harassing or defrauding a person or entity.

Three of these four grounds for cancellation relate to the business entity's purpose. Thus, an obvious question will be how will the Secretary of State divine the entity's purpose?

After all, in most cases, the formation documents will provide no specific information regarding the entity's purpose. California Corporations Code Section 202, for example, requires that the articles of incorporation include either of the two following statements:

(A) The purpose of the corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code; or

(B) The purpose of the corporation is to engage in the profession of _____ (with the insertion of a profession permitted to be incorporated by the California Corporations Code) and any other lawful activities (other than the banking or trust company business) not prohibited to a corporation engaging in such profession by applicable laws and regulations.

A statement and designation filed by a foreign corporation registering to transact intrastate business includes no statement of purpose. See Cal. Corp. Code § 2105. Similarly, the articles of formation for a California limited liability company must simply state that the LLC "is to engage in any lawful act or activity for which a limited liability company may be organized" under the California LLC Act.

One exception is the Nonprofit Public Benefit Corporation Law which requires a corporation organized for "public" purposes to include a further description of the corporation's purposes. Cal. Corp. Code § 5130(b). However a nonprofit public benefit corporation that is formed for charitable purposes is not required to include a further description, although it may do so if so chooses. *Id.*

In light of these statutory provisions, it is highly unlikely that the Secretary of State's office will be able to identify a specific purpose, much less an unlawful, false, fraudulent, illegitimate or harassing purpose, in the formation documents that are filed by business entities.

© 2010-2025 Allen Matkins Leck Gamble Mallory & Natsis LLP

National Law Review, Volume XIV, Number 81

Source URL: <https://natlawreview.com/article/how-will-secretary-state-know-corporations-purpose>