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Testimony on Senate Bill 142

Chair Doherty, members of the committee, my name is Peter Threlkel; I am the Director of the Corporation Division for the Secretary of State's office, here to talk with you today about Senate Bill 142.

Senate Bill 142 is part of the Secretary of State's effort to make it easier to do business in Oregon by updating statutes to remove barriers for business and aligning them with today's business practices. Almost every change in the bill was brought to our attention and requested by a business customer.

For example, the requirement that a director, officer or manager sign business filings and annual reports to update registrations with the Secretary of State conflicts with a common business practice. Many businesses find it more efficient to delegate this administrative task to an authorized agent to file these documents on behalf of the company, allowing the company to focus its efforts on running the business. These agents perform this function accurately and efficiently, and since maintaining registrations is their business they help their clients avoid the additional costs and hassle of dealing with administrative dissolution if paperwork is overlooked. Senate Bill 142 will remove this barrier by recognizing that many companies choose to authorize someone other than a director, officer or manager to file annual reports with the Secretary of State.

An oversight in the Cooperative Corporation Act (ORS 62) could prevent a foreign cooperative corporation from using the word "cooperative" or "coop" in its name when doing business in Oregon. Additionally, the United States Congress, through the Federal Affordable Care Act authorizes the creation of the Consumer Operated and Oriented Plan (CO-OP) program to foster the creation of qualified health insurance issuers in the states. Congress intentionally chose the acronym "CO-OP" to communicate to the public that these new entities are member-controlled and member focused, which will function like a traditional cooperative. Senate Bill 142 creates a specific and limited exemption to allow these two types of businesses to use "cooperative" or "CO-OP" in their name.

Oregon is the only one of a hand full of states that won't allow a limited liability company to use the word "partnership" in the business name. This creates conflict when a foreign limited liability company whose name includes the word "partnership" wants to do business in Oregon. To comply with Oregon law, they would have to change their

business name or choose not to do business here. Senate Bill 142 corrects this by removing the word “partnership” from the list of words prohibited in a business name.

The Corporation Division strives to operate in the most customer-friendly, yet efficient and cost-effective manner possible. Filing procedures have been streamlined so that all business entity registrations are processed uniformly and efficiently. Oregon’s business statutes support this, with the exception of a recently noticed inconsistency in the Limited Liability Company Act (ORS 63) for sending acknowledgements of certain filing transactions, like changes to the registered agent, and annual report. Limited Liability Companies do not expect to receive these acknowledgements and, without this change, they would otherwise increase program costs over \$100,000 a biennium. No other entity receives acknowledgments for these actions; the inconsistency was merely an oversight, not the intention of the legislature.

Companies go out of business for many reasons. However, the manner in which you dissolve the business can have serious legal implications on the businesses ability to liquidate its assets and wind-up its affairs. When a company fails to file its annual report within the grace period set in statute, they are administratively dissolved by the Secretary of State. In this situation, statute allows the business to take actions “*necessary*” to wind-up its affairs, whereas a business that files articles of dissolution can takes actions as “*appropriate*” to wind-up its affairs. This inconsistent treatment of dissolved companies in statute places unnecessary limits on some businesses and puts legal transactions at risk.

Senate Bill 142 provides a simple solution to all of these issues. We feel this is really a cleanup or house-keeping bill. There is no fiscal impact.

Thank you for allowing my testimony. I would be happy to answer any questions that you have.