

490.120 Requirements for documents — extrinsic facts.

1. A document must satisfy the requirements of [this section](#), and of any other section that adds to or varies these requirements, to be entitled to filing by the secretary of state.

2. [This chapter](#) must require or permit filing the document in the office of the secretary of state.

3. The document must contain the information required by [this chapter](#) and may contain other information.

4. The document must be typewritten or printed or, if electronically transmitted, it must be in a format that can be retrieved or reproduced in typewritten or printed form.

5. The document must be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of registration required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

6. Except as provided in [section 490.1621, subsection 3](#), the document must be signed by any of the following:

a. The chair of the board of directors of a domestic or foreign corporation, its president, or another of its officers.

b. If directors have not been selected or the corporation has not been formed, by an incorporator.

c. If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

7. a. The person executing the document shall sign it and state beneath or opposite the person's signature the person's name and the capacity in which the document is signed. The document may but need not contain a corporate seal, attestation, acknowledgment, or verification.

b. The secretary of state may accept for filing a document containing a copy of a signature, however made.

8. If the secretary of state has prescribed a mandatory form for the document under [section 490.121, subsection 1](#), the document must be in or on the prescribed form.

9. The document must be delivered to the office of the secretary of state for filing. Delivery may be made by electronic transmission if and to the extent permitted by the secretary of state. If it is filed in typewritten or printed form and not transmitted electronically, the secretary of state may require one exact or conformed copy to be delivered with the document.

10. When the document is delivered to the office of the secretary of state for filing, the correct filing fee, and any franchise tax, license fee, or penalty required by [this chapter](#) or other law to be paid at the time of delivery for filing must be paid or provision for payment made in a manner permitted by the secretary of state.

11. Whenever a provision of [this chapter](#) permits any of the terms of a plan or a filed document to be dependent on facts objectively ascertainable outside the plan or filed document, all of the following provisions apply:

a. The manner in which the facts will operate upon the terms of the plan or filed document must be set forth in the plan or filed document.

b. The facts may include any of the following:

(1) Any of the following that is available in a nationally recognized news or information medium either in print or electronically: statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data.

(2) A determination or action by any person or body, including the corporation or any other party to a plan or filed document.

(3) The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document.

c. As used in [this subsection](#):

(1) "*Filed document*" means a document filed by the secretary of state under any provision of [this chapter](#) except [subchapter XV](#) or [section 490.1621](#).

(2) “Plan” means a plan of domestication, conversion, merger, or share exchange.

d. The following provisions of a plan or filed document shall not be made dependent on facts outside the plan or filed document:

- (1) The name and address of any person required in a filed document.
- (2) The registered office of any entity required in a filed document.
- (3) The registered agent of any entity required in a filed document.
- (4) The number of authorized shares and designation of each class or series of shares.
- (5) The effective date of a filed document.
- (6) Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given.

e. If a provision of a filed document is made dependent on a fact ascertainable outside of the filed document, and that fact is neither ascertainable by reference to a source described in paragraph “b”, subparagraph (1), nor a document that is a matter of public record, and the affected shareholders have not received notice of the fact from the corporation, then the corporation shall file with the secretary of state articles of amendment to the filed document setting forth the fact promptly after the time when the fact referred to is first ascertainable or thereafter changes. Articles of amendment under this paragraph “e” are deemed to be authorized by the authorization of the original filed document to which they relate and may be filed by the corporation without further action by the board of directors or the shareholders.

89 Acts, ch 288, §3; 90 Acts, ch 1205, §16; 2002 Acts, ch 1154, §1, 2, 125; 2007 Acts, ch 140, §1; 2012 Acts, ch 1023, §157; 2019 Acts, ch 20, §16; 2019 Acts, ch 24, §104; 2021 Acts, ch 165, §2, 230; 2022 Acts, ch 1058, §8

Referred to in §9.11, 490.125, 490.202, 490.601, 490.920, 490.931, 490.1006, 490.1102, 490.1103, 490.1601, 490.1621