

Primer: Nuts and Bolts of LLCs, LLPs and Partnerships

The SOS Perspective



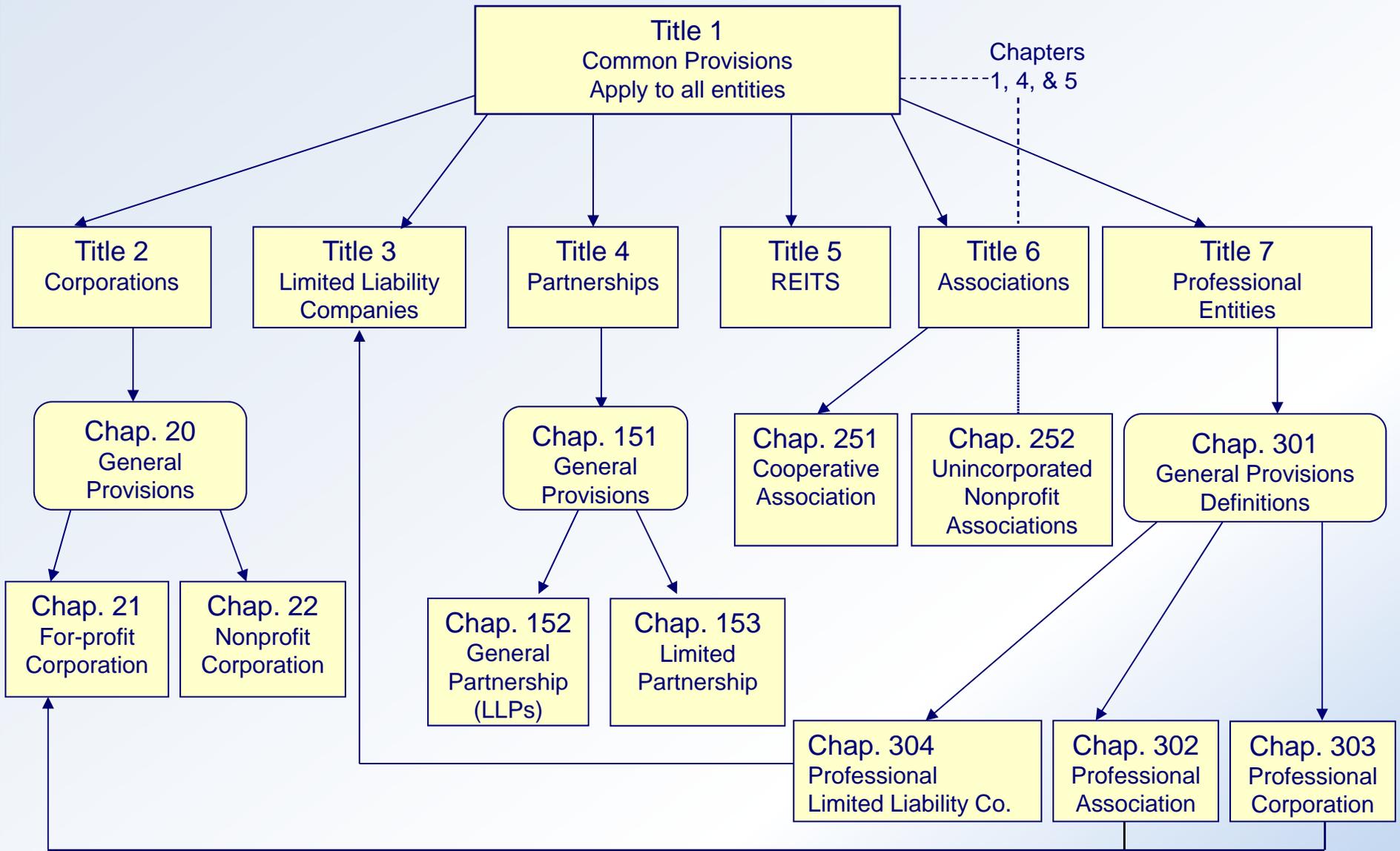
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Texas Business Organizations Code Structure

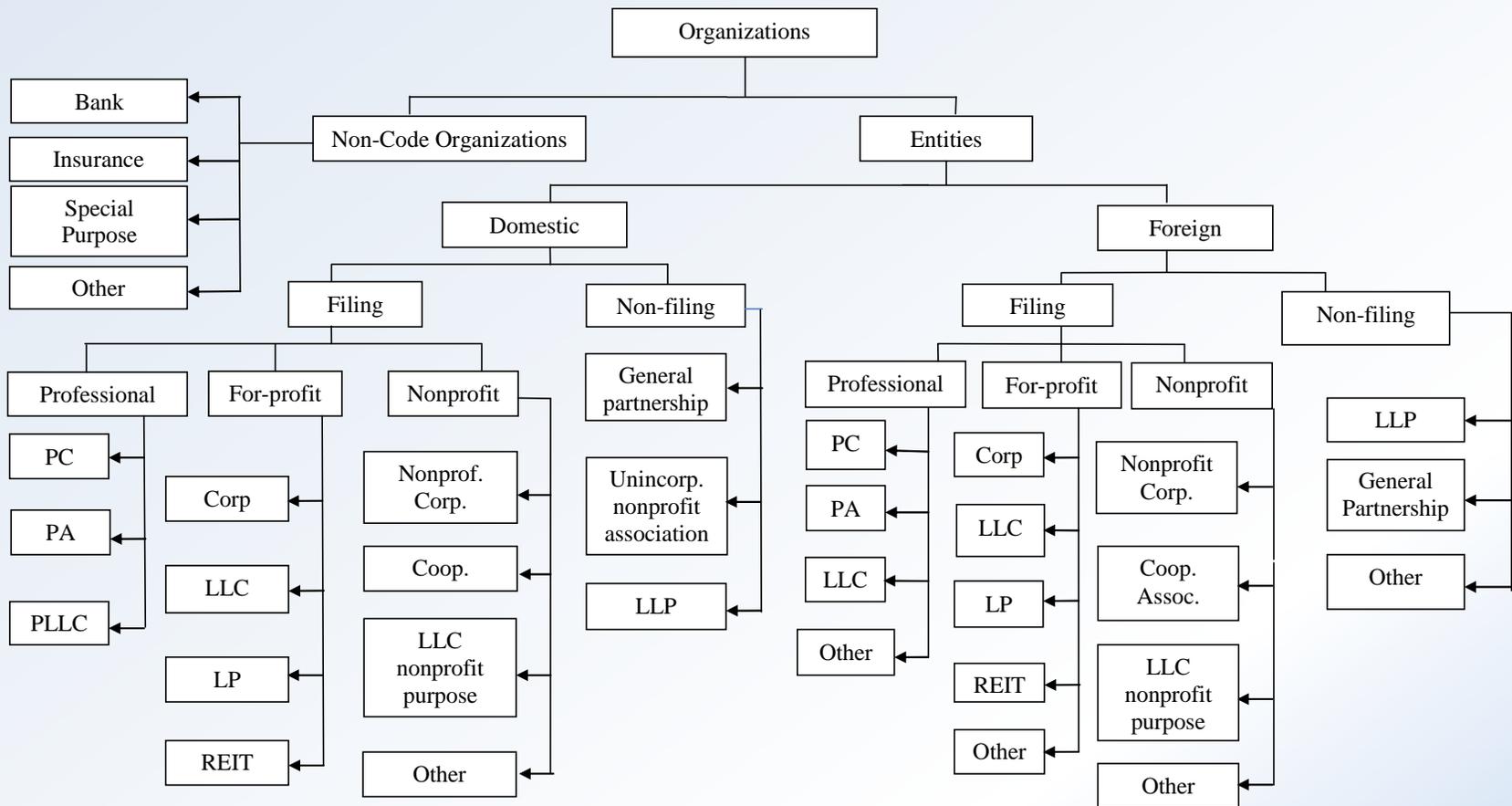




Types of Organizations and Non-Code Organizations

§ 1.002 (56) and (62)





Entity Names

Most frequent reason for rejection is availability of name.



Entity Name Determinations

SOS determines availability of the legal names of corporations, limited liability companies and limited partnerships.

- No SOS determination of availability for names of LLPs or assumed names filed under chapter 71 of Texas Business & Commerce Code (unless the assumed name is the name under which a foreign entity is required to transact business in Texas).



Administrative Rules on Availability of Entity Names

The standards that the SOS applies when determining the availability of an entity name are included in Title 1, Part 4, Chapter 79, Subchapter C of the Texas Administrative Code.

There is a link to the rules on the *About the Corporations Section* tier page on SOS website under *Points of Interest*.

Points of Interest
Mergers and Conversions FAQs
Terminations and Reinstatements FAQs
Information on the Texas Business Organizations Code
Business and Nonprofit Forms
Fee Schedule
Frequently Asked Questions
Name Availability Rules



Entity Name Availability

Three categories of names that are not available:

- Same
- Deceptively similar
- Similar requiring consent

Name availability standards vary from state to state. Texas does not use the distinguishable upon the record standard that may be used in other states. *Just because a name was available in Delaware doesn't mean that the name will comply with § 5.053 BOC.*



Deceptively Similar

1 TAC §§ 79.37-79.39

Deceptively similar when difference is:

- words or abbreviations of organization
- use of different articles, prepositions or conjunctions
- spacing, periods, or other symbols
- singular, plural, or possessive
- spelled differently, but sound the same
- commonly known abbreviations or acronyms



Deceptively Similar Names Are Not Available with Consent

Steakley v. Braden

322 S.W.2d 363

(Tex. Civ. App.—Austin 1959, writ ref'd n.r.e.)

Consent does not apply to names that are deceptively similar. Legislature did not empower persons to authorize, by giving consent, the practice of unfair competition, confusion or fraud.



Names of Related Entities

Names of related entities can be close, but cannot be deceptively similar.

- You can create an LP under the name *Wassdorf-Flores Limited Partnership* and name the LLC general partner *Wassdorf-Flores GP*, LLC.
- You cannot name the LLC general partner *Wassdorf-Flores LLC* since the difference between the names is the organizational designations, a *deceptively similar* category.



Similar Requiring Consent

1 TAC §§ 79.40-79.43

Similar when difference is:

- geographical designation at end of name
- first two or more words are same or deceptively similar
- numerical expression that implies affiliation
- same words in inverted order
- internet locator at the beginning or end of name
- same root word



One Word in Common

Unless the conditions of deceptively similarity apply, one word in common will not bar a name.

- Ergon Energy, Inc. is not similar requiring a letter of consent from Ergon, Inc.

Ergon, Inc. V. Dean, 649 S.W.2d 772 (Tex. App.—Austin 1983, no writ)

Note that case also stands for the proposition that a violation of the administrative rules on availability is functional equivalent of a violation of the statute.



Forms of Consent

- Consent can be in any written format and signed by an officer or authorized agent of the consenting entity. Email consent is acceptable.
- Consent cannot be withdrawn. SOS does not enforce any private agreements or conditions that parties may have regarding use or regarding consent.



Forms of Consent

- Consent must be submitted with the document for which the consent has been obtained. Do not submit separately.
- SOS provides form 509 that may be used for consent.



How to Check Availability

- SOSDirect Name Availability Search
- Call (512) 463-5555
- Email corpinfo@sos.state.tx.us

This is a preliminary clearance.



What To Do After Checking Name Availability With SOS

Do not authorize client to execute contracts under proposed name or expend money for letterhead, signage, or other purchases utilizing the proposed name based on a preliminary clearance of the name.

Final determination is made when the SOS files a document approving the use of the proposed name. 1 TAC § 79.49



Name Reservations

Consider reserving a name if there is going to be a lapse between preliminary clearance and submission of a filing instrument to the SOS.

- Form 501
- \$40 filing fee
- Reserved for a period of 120 days
- May be renewed



Effect of Filing on Rights of Another

§ 5.001 BOC

Filing of a certificate of formation, application for registration, name reservation or name registration does not authorize the use of the name in Texas in violation of the rights of another under:

- Federal or state trademark law or
- Common law



Other Places to Check

- Check for assumed names and state trademarks in SOS records.
- Check for assumed names in county records.
- Check USPTO.
- Search the internet, telephone directories, trade magazines.



SOS Determination May Not Be Persuasive in Subsequent Suit for Infringement

In determining availability, SOS only compares the proposed names with the legal names of corporations, LLCs and LPs as filed with the SOS.

No consideration given to location of operations, trade territories or channels, purposes, or prior or superior rights as evidenced by filings outside of the SOS records. 1 TAC § 79.48

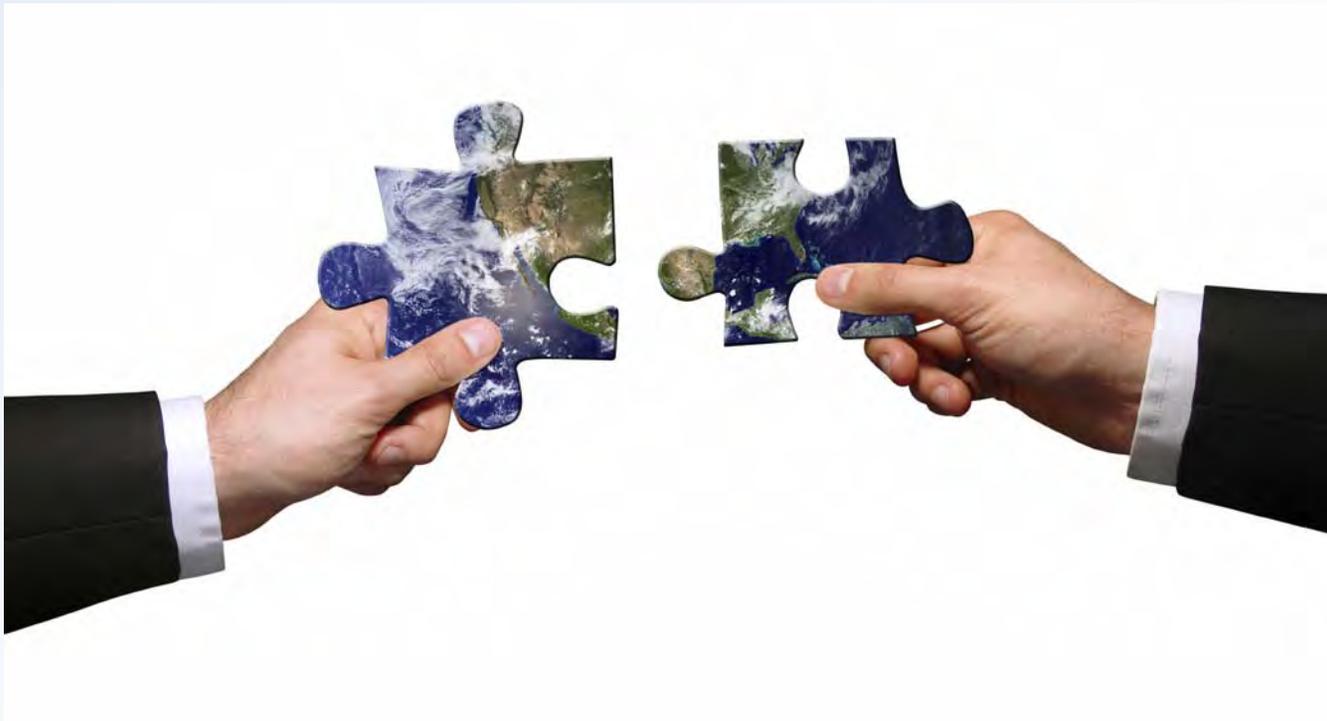


Troublesome Words

- Words that imply an unauthorized purpose
 - Bank, Trust, Insurance
 - College, University
- Words that imply the entity should be created as a professional entity (e.g., medical, law, etc.)
- Words that imply the entity is created for veterans
 - Veteran, Foreign, War, Legion, Spanish
- Prohibited words
 - Olympic
 - Lotto or Lottery



Foreign Entity Issues



Foreign Entities Transacting Business in Texas

If you opt to create, for example, a Delaware LLC that will be transacting business in Texas, be sure the Delaware LLC promptly files its application for registration with the Texas SOS to avoid late filing fees.

The SOS may collect a late filing fee if the entity has transacted business in Texas for more than 90 days without registering. SOS may condition registration on payment of the late fee. § 9.054
BOC

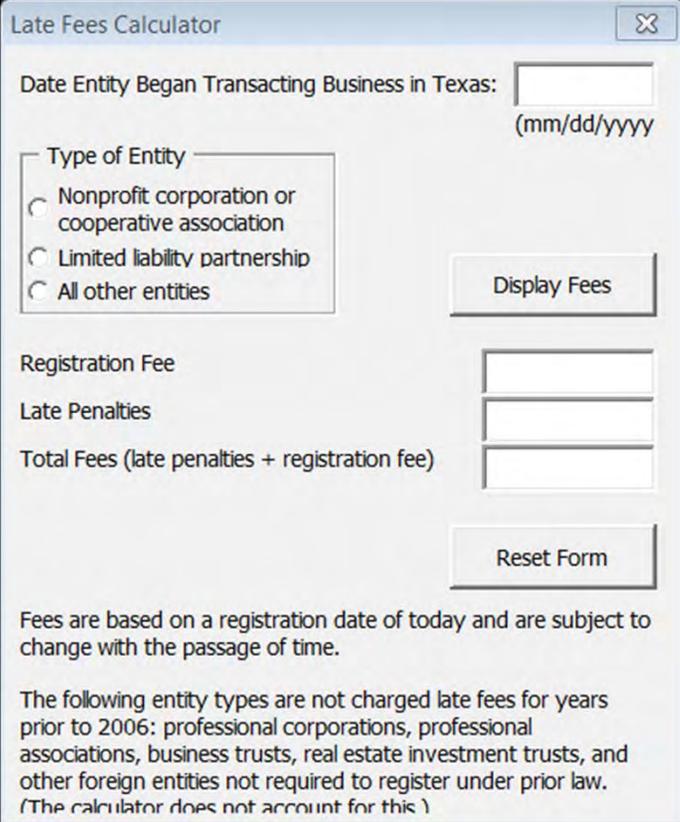


Late Fee Calculation

Late filing fee = filing fee for registration for each year or part of a year that the entity transacted business without being registered.

SOS provides tool on its website for calculating late fee:

www.sos.state.tx.us/corp/foreign_outofstate.shtml



The screenshot shows a web form titled "Late Fees Calculator". It includes a date input field for "Date Entity Began Transacting Business in Texas" with a "(mm/dd/yyyy)" label. Below this is a "Type of Entity" section with three radio button options: "Nonprofit corporation or cooperative association", "Limited liability partnership", and "All other entities". To the right of these options is a "Display Fees" button. Below the radio buttons are three input fields for "Registration Fee", "Late Penalties", and "Total Fees (late penalties + registration fee)". A "Reset Form" button is located at the bottom right of the form. At the bottom of the form, there is a disclaimer: "Fees are based on a registration date of today and are subject to change with the passage of time. The following entity types are not charged late fees for years prior to 2006: professional corporations, professional associations, business trusts, real estate investment trusts, and other foreign entities not required to register under prior law. (The calculator does not account for this.)"



Transaction of Business

- Corporation can be *doing business* in Texas and be subject to state taxation without being considered to be transacting business.
- Transacting business is not defined in BOC. Generally, if an entity has an office or employee in Texas, it should file an application for registration.
- While a Texas REIT would not file a certificate of formation with the SOS, a foreign REIT transacting business in Texas is required to register with the SOS. See § 9.001 BOC



Activities Not Considered to be the Transaction of Business

Section 9.251 provides a list of activities that are not considered to be the transaction of business:

- Interstate commerce
- Isolated transaction completed within 30 days
- Sales through independent contractor
- Owning, without more, real or personal property in Texas
- Maintaining a bank account



Filing Aids and Options



Expedited Handling

- Section 405.032 of the Government Code provides for the expedited filing or review of business filing instruments.
- The fee for expediting is \$25 per instrument.
- Expedited service is not same day service. Documents are generally reviewed and filed by close of business the first business day after receipt.



Expedited Handling

- Notification of filing is a faxed copy of the certificate of filing; notification of rejection is a faxed copy of the rejection letter.
- File-stamped copy, if duplicate provided, is returned by regular mail.



SOS Forms

- Use of SOS forms is permissive.
- Forms drafted to meet minimal statutory requirements.
- Not intended to be a substitute for advice and services of an attorney.
- Can serve as a guideline for drafting a filing instrument or a checklist for ensuring compliance with code requirements.
- Failure to promulgate form does not mean that a document cannot be filed with the SOS.



Forms Available on the SOS website in Word or PDF format

http://www.sos.state.tx.us/corp/forms_boc.shtml

- Certificates of formation
- Applications for registration
- Amendments, corrections, changes of registered office
- Name reservations, name registrations, assumed names



Report Forms

http://www.sos.state.tx.us/corp/forms_reports.shtml

- Nonprofit corporation periodic report—802
- Professional association annual statement (due June 30th)—803
- Limited partnership periodic report—804



More Forms

- Terminations, Withdrawals
- Mergers, Conversions
- Reinstatements
- LLP registrations
- Appointment of agents by financial institutions, unincorporated associations, foreign corporate fiduciary
- Mergers
- Conversions



Converting a Foreign Entity to a Texas Filing Entity

SOS does not provide a form for conversion of a foreign entity to a Texas filing entity. A summary of the requirements included in Form 647.

- Not all jurisdictions permit conversions. For a cross-jurisdiction conversion to be effective, the laws of both jurisdictions must permit the transaction and be followed.
- The registration of a foreign entity to transact business in Texas is automatically withdrawn on filing a conversion to convert the foreign entity to a domestic entity.



SOS has not promulgated forms for all possible filing scenarios

SOS has not promulgated forms for certificates of formation for:

- Close corporations
- Entities created under special statutes (cemeteries, industrial development corporations, health facility corporations, cultural educational corporations, agricultural cooperatives, etc.)
- Texas Series LLCs



Date of Filing

- If the SOS finds that a filing instrument delivered conforms to the provisions of BOC and the administrative rules, and all required fees have been paid, the SOS will file the instrument and assign a date of filing. § 4.002 BOC
- Date of filing is the date of receipt for documents that conform to law and for which the filing fee has been paid. 1 TAC § 79.9.

(Exception: Name reservations)

Postmark rule does not apply.



Date of Filing when a Document is Rejected

When a document is corrected and resubmitted, the date of filing of the document will be the date of last receipt.

The date of filing may not be a date prior to the date on which the document is found to conform to law and the filing fee has been tendered.

Texas SOS does not “backdate” documents!



Delayed Effective Dates

File early and set forth delayed effective dates and times in the filing instrument. (SOS only shows time of filing in conjunction with delayed effective dates and times.)



Preclearance

- Recommended for complex or unusual transactions, especially mergers or conversions.
- Reduce risk of rejection on date of closing—submit draft for preclearance well before anticipated filing date.
- Identify submission as a preclearance request and submit \$50 fee.



Preclearance

- SOS will issue a letter indicating that the document has been precleared for filing.
- When document is submitted for filing, attach the preclearance letter; make sure the document has been executed and the correct filing fee has been submitted.



Forms of Payment

- SOS accepts cash, checks, most credit cards, LegalEase and allows for prefunded client accounts.
- Filing fees must be paid in advance. Fees for copies and certificates may be accrued and paid monthly.
- Don't risk rejection for submission of a check in an insufficient amount. Use of a credit card, LegalEase or funded client account avoids the risk of rejection.



Certificate Validation

<https://sosdirectws.sos.state.tx.us/pdfondemand/CertValidation.aspx>

The online certificate validation process can be used to verify that a certificate of filing or a certificate of fact has, in fact, been issued by the Corporations Section of the Texas Secretary of State.

Uses the document number found at the bottom of each certificate.



Certificate Validation

<https://sosdirectws.sos.state.tx.us/pdfondemand/CertValidation.aspx>

Applies only to certificates of filing, certificates of fact, and information letters issued after January 1, 2006 in connection with business organization documents on file with the Corporations Section.

Certificates generated in connection with state trademark registrations or UCC filings cannot be verified through this service.



Frequently Asked Questions

www.sos.state.tx.us/corp/generalfaq.shtml

Formation of Texas Entities	Amendments and Corrections	Name Filings
Mergers and Conversions	Terminations and Reinstatements	Foreign or Out-of-State Entities
Nonprofit Organizations	Management and Ownership	Registered Agents
Home or Property Owners' Assns.	Business Organizations Code	Filing & Other General Questions
SOSDirect	Trademarks	Service of Process Information





Document Filing via SOSDirect

- Best Turnaround that the SOS provides. Usually between four and eight business hours.
- Available 24 by 7 for submissions and retrieving information.
- No expedite fees assessed.



Document Filing via SOSDirect

- File dates are based on submission date because that is when the documents are received by the SOSDirect system.
- Certificates of filing, file-stamped copy of document, and packing slip returned by email. Rejection notices too!



Documents that can be submitted via SOSDirect

- Name reservations (no renewals)
- Name registrations (no renewals)
- Certificates of formation (not for entities created under special statutes)
- LLP registrations (no renewals)
- Applications for foreign registration
- Changes of registered office/agent
- Assumed name certificates (does not include county filing)
- Terminations and Withdrawals



Documents that can be submitted via SOSDirect *with limitations*

- Certificates of amendments (*online filings limited to entity name changes*)
- Reinstatements *after tax forfeitures*
- Annual statements and periodic reports for limited partnerships and nonprofit corporations *so long as the filing is timely*



SOSDirect Helpful Hints

- SOS does not re-key the data you submit. The database and any certificates issued will reflect the entity name, and other information, exactly as you entered the data.
- You are establishing and entering your account information when you set up an SOSDirect account. If you want the name of your firm to be in sentence case on acknowledgment and rejection letters, don't enter the name in lower case.



SOSDirect Helpful Hints

- Email from SOSDirect system is sent via an automated process. If you use a Spam filtering service make sure the address sosdirect@sos.state.tx.us is allowed through without being filtered. This will ensure documents delivered via email will arrive without delay and without the need for human intervention.
- Open emails and links to zipped files as soon as practical.

Document submitted may have been rejected!



SOSDirect Payment Options

- \$ Charges for Inquiries/Orders may accrue to the Client Account and be paid from a monthly statement. Charges for Web Filings require payment at time of submission.
- \$ Methods of payment include client account, credit card [American Express, Discover Card, MasterCard, or Visa] or LegalEase.



SOSDirect Payment Options

- \$ Use Credit Card or LegalEase for payment method unless client account has been funded 24 hours in advance.
- \$ Credit card company may decline payment if name and address entered on payment screen do not match card statement.



Attachments in SOSDirect

- SOSDirect allows for attachment of documents in the following formats: PDF, TIF and TXT.
- Attachment feature generally used for consent of registered agent, consent to use of an entity name, and for tax certificates.
- *Note: On request, Comptroller of Public Accounts will provide a tax certificate or tax clearance letter in the appropriate file format for attachment purposes.*



Text Box in SOSDirect

Text Boxes allow user to input optional provisions or to cut and paste these provisions from another document.



SOSDirect Statistics

- Currently, over 43% of all filing instruments are submitted via SOSDirect.
- The percentage of certificates of formation submitted through SOSDirect is 60% and rising.
- Percentage of orders (certificates of fact, certified copies and plain copies) placed over SOSDirect approaching 90%.



Searching on SOSDirect

Users can search the same database and conduct the same searches as an SOS employee:

- Name availability
- Find by name of entity
- Find by name of person associated with the entity
- Find global

Note: \$1.00 fee per search on SOSDirect.



Searching on SOSDirect

Users can search the same database and conduct the same searches as an SOS employee:

- Find by assumed name
- Find by number (file number, document number, tid, fein)
- Find by registered agent
- Find entities that have named you as registered agent in the last 60 days

Note: \$1.00 fee per search on SOSDirect.



TEXAS SECRETARY of STATE

JOHN STEEN

UCC | Business Organizations | Trademarks | Notary | Account | Help/Fees | Briefcase | Logout

BUSINESS ORGANIZATIONS MENU

Use client reference to keep track of work performed for client.

CLIENT REFERENCE (optional): [NONE]	
● Client Reference: <input type="text"/>	<input type="button" value="Update Client Reference"/>
INQUIRIES AND ORDERS	
● Name Availability Search	● Filing Number Search
● Find - Entity	● FEIN Search
● Find - Supplemental	● TID Search
● Find - Global	● Document Number Search
● Find - Assumed Name	● Order - Certificates and Copies
● Find - People	● Bulk Order - Data
● Find - Registered Agent	● Registered Agent activity past 60 days <small>NEW</small>
WEB FILINGS	
<p>DO NOT USE 'BACK' BUTTON Use of the 'BACK' button during the "WEB FILINGS" process will result in loss of data. Please press the 'Cancel Filing' button and start again.</p>	
<p>● Reservation * Formation * Registration Documents First select the type of entity for which you wish to submit a filing, and then click 'File Document'</p> <p>Application for Name Reservation <input type="button" value="File Document"/></p>	
<p>File assumed name certificates, changes to registered office/agent, dissolutions, reinstatements, cancellations, withdrawals and annual statements as change documents.</p>	
<p>● Change Documents Enter filing number and click 'File Document' or click 'Find Entity'</p> <p><input type="text"/> <input type="button" value="Find Entity"/> <input type="button" value="File Document"/></p>	
● Master Filing	
● Master Filing Search/Cost Estimator	



NAME AVAILABILITY SEARCH

This search was performed on with the following search parameter:

ENTITY NAME : Dell Computer

<u>Mark</u>	<u>Filing Number</u>	<u>Name</u>	<u>Entity Type</u>	<u>Entity Status</u>	<u>Name Type</u>	<u>Name Status</u>
<input type="radio"/>	7444706	Dell Computer Inc.	Foreign For-Profit Corporation	In existence	Fictitious	In use
<input type="radio"/>	6838710	DELL COMPUTER HOLDINGS L.P.	Domestic Limited Partnership (LP)	In existence	Legal	In use
<input type="radio"/>	800471828	Computer Modelling Group, Inc.	Foreign For-Profit Corporation	In existence	Legal	In use
<input type="radio"/>	9163206	DEALER COMPUTER SERVICES, INC.	Foreign For-Profit Corporation	In existence	Legal	In use
<input type="radio"/>	10860306	CITADEL COMPUTER SYSTEMS INCORPORATED	Foreign For-Profit Corporation	In existence	Legal	In use
<input type="radio"/>	800116510	MODEL Computer Consulting Services, LLC	Domestic Limited Liability Company (LLC)	In existence	Legal	In use
<input type="radio"/>	800635290	Dallas Computers Incorporated	Domestic For-Profit Corporation	In existence	Legal	In use
<input type="radio"/>	800637361	CDI Computer Dealers, Corp.	Foreign For-Profit Corporation	In existence	Legal	In use
<input type="radio"/>	801577939	COMPUTER GUYS OF DALLAS, INC.	Domestic For-Profit Corporation	In existence	Legal	In use
<input type="radio"/>	700576422	COMPUTER CABLES OF DALLAS, L.L.C.	Domestic Limited Liability Company (LLC)	In existence	Legal	In use

Records 1 to 10 of 30 scroll

[Next >>](#)

OR proceed to page

of 3 pages

[GO](#)

[Return to Order](#)

[New Search](#)

Instructions:

- To view additional information pertaining to a particular filing select the number associated with the name.
- To place an order for additional information about a filing select the radial button listed under 'Mark' that is associated with the entity and press the 'Order' button.



BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY

Filing Number: 7444706 **Entity Type:** Foreign For-Profit Corporation
Original Date of Filing: October 27, 1987 **Entity Status:** In existence
Formation Date: N/A
Tax ID: 17424878340 **FEIN:**
Name: Dell Inc.
Address: 1 DELL WAY
ROUND ROCK, TX 78682-7000 USA
Fictitious Name: Dell Computer Inc.
Jurisdiction: DE, USA
Foreign Formation Date: N/A

REGISTERED AGENT	FILING HISTORY	NAMES	MANAGEMENT	ASSUMED NAMES	ASSOCIATED ENTITIES
Name	Address			Inactive Date	
CORPORATION SERVICE COMPANY D/B/A+	211 E. 7th Street, Suite 620 Austin, TX 78701-3218 USA				

Instructions:
● To place an order for additional information about a filing press the 'Order' button.

The “entity detail” screen provides a brief summary of information relating to the entity and defaults to display the current registered agent/office information.



BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY

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Formation Date: N/A
Tax ID: 17424878340 **FEIN:**
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 ROUND ROCK, TX 78682-7000 USA
Fictitious Name: Dell Computer Inc.
Jurisdiction: DE, USA
Foreign Formation Date: N/A

REGISTERED AGENT		FILING HISTORY		NAMES		MANAGEMENT		ASSUMED NAMES		ASSOCIATED ENTITIES	
View Image	Document Number	Filing Type	Filing Date	Effective Date	Eff. Cond	Page Count					
	3105275	Application For Certificate Of Authority	October 27, 1987	October 27, 1987	No	4					
	3105276	Change Of Registered Agent/Office	October 28, 1993	October 28, 1993	No	1					
	3105277	Change Of Registered Agent/Office	September 18, 1995	September 18, 1995	No	1					
	3105278	Change Of Registered Agent/Office	November 20, 1996	November 20, 1996	No	1					
	3105279	Change Of Registered Agent/Office	August 21, 1997	August 21, 1997	No	1					
	3105280	Maintenance	September 12, 1997	September 12, 1997	No	1					
	3105281	Change Of Registered Agent/Office	January 22, 1999	January 22, 1999	No	1					
	32714250001	Public Information Report (PIR)	December 31, 2002	April 28, 2003	No	4					
	39207060854	Change of Registered Agent/Office	July 31, 2003	July 31, 2003	No	1					
	45437770001	Public Information Report (PIR)	December 31, 2003	October 19, 2003	No	4					
	76782710001	Public Information Report (PIR)	December 31, 2004	December 8, 2004	No	4					
	122161600001	Public Information Report (PIR)	December 31, 2005	March 23, 2006	No	2					
	154961860002	Certificate of Assumed Business Name	December 20, 2006	December 20, 2006	No	2					
	154961410002	Application for Amended Certificate of Authority	December 20, 2006	December 20, 2006	No	3					



Image icon indicates you can print a copy of document from your PC.



View Image	Document Number	Filing Type	Filing Date	Effective Date	Eff. Cond	Page Count
	3105275	Application For Certificate Of Authority	October 27, 1987	October 27, 1987	No	4
	3105276	Change Of Registered Agent/Office	October 28, 1993	October 28, 1993	No	1
	3105277	Change Of Registered Agent/Office	September 18, 1995	September 18, 1995	No	1
	3105278	Change Of Registered Agent/Office	November 20, 1996	November 20, 1996	No	1
	3105279	Change Of Registered Agent/Office	August 21, 1997	August 21, 1997	No	1
	3105280	Maintenance	September 12, 1997	September 12, 1997	No	1
	3105281	Change Of Registered Agent/Office	January 22, 1999	January 22, 1999	No	1
	32714250001	Public Information Report (PIR)	December 31, 2002	April 28, 2003	No	4
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	122161600001	Public Information Report (PIR)	December 31, 2005	March 23, 2006	No	2
	154961860002	Certificate of Assumed Business Name	December 20, 2006	December 20, 2006	No	2
	154961410002	Application for Amended Certificate of Authority	December 20, 2006	December 20, 2006	No	3
	154964050002	Certificate of Assumed Business Name	December 20, 2006	December 20, 2006	No	2
	168805530001	Public Information Report (PIR)	December 31, 2006	April 29, 2007	No	1
	183510430001	Public Information Report (PIR)	December 31, 2007	August 25, 2007	No	1
	281713091384	Change of Office by Registered Agent	October 30, 2009	October 30, 2009	No	1
	322263540001	Public Information Report (PIR)	December 31, 2009	August 20, 2010	No	2
	359232520001	Public Information Report (PIR)	December 31, 2010	March 14, 2011	No	2

Order

Return to Search

To order certified copies or certificates of fact, press the order button at the bottom of the filing history display.



BUSINESS ORGANIZATION AND TRADEMARK ORDERS

Add Order Item

Order Type Fact Type

Filing Number Trademark Registration Number

Current Order Items for this Order

Delete	Order Details	Order Type
No order items have been entered for this order.		

Instructions:

- Select an order type. If you selected a certificate of fact, you must also select a fact type.
- Input the filing number of the entity for which you are ordering copies or certificates or the registration number for the trademark. Enter the filing number without spaces or hyphens. Some filing numbers on the legacy computer system consisted of a two digit type code. Include those digits as the last two numbers of the filing number.
- If you do not know the filing or registration number, click the 'find' button.
- When you have identified the applicable entity or trademark and selected the order type, click on 'Add Order Item.' This will add the item to the grid. If an order item has been incorrectly added, you may click on 'Delete' to remove it.
- The statutory fees for order types are as follows:
 - Certificates of Fact \$15.00 per certificate
 - Information Letters \$ 5.00 per letter
 - Certified Copies \$15.00 for the certificate and \$1.00 for each page in the copy
 - Plain copies Copies of less than 50 pages, \$0.10 per page
- You will be notified by e-mail when the order is processed and ready for retrieval from your briefcase. Certificates will have a digitized signature of the Secretary of State and seal of the State of Texas



UCC Business Organizations Trademarks Notary Account Help/Fees Briefcase Logout

BUSINESS ORGANIZATION AND TRADEMARK ORDERS

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 - Certified Copies \$15.00 for the certificate and \$1.00 for each page in the copy
 - Plain copies Copies of less than 50 pages, \$0.10 per page
- You will be notified by e-mail when the order is processed and ready for retrieval from your briefcase. Certificates will have a digitized signature of the Secretary of State and seal of the State of Texas.

Select “order type” from the drop down list. To get a “certificate of existence,” first select “Certificate of Fact.”



TEXAS SECRETARY of STATE
JOHN STEEN

UCC Business Organizations Trademarks Notary Account Help/Fees Briefcase Logout

BUSINESS ORGANIZATION AND TRADEMARK ORDERS

Add Order Item

Order Type: Certificate of Fact
Fact Type: None

Filing Number: 7444706
Find Entity...
Add Order Item Return To Search

Current Order Items for this Order

Delete Order Details

No order items have been entered for this order.

Submit Order Cancel Order

After selecting “Certificate of Fact,” select a “fact type.”
For a certificate of existence, select “status.”



Add Order Item

Order Type
Certificate of Fact

Fact Type
Status

Filing Number

7444706

Find Entity...

Trademark Registration Number

Find Trademark...

Add Order Item

Return To Search Results

Current Order Items for this Order

Delete

Order Details

Order Type

No order items have been entered for this order.

Submit Order

Cancel Order

Click the “Add Order Item” button to add the order item selected. Click the “Submit Order” button, to transmit your order.





SOSDirect 2 Coming Soon!



Home Briefcase

SOSDirect : Home



Sign in with your Client ID

Password

(forgot my password)

Sign In >>

New Account

Temporary Access

Secretary of State – Online Business Services

SOSDirect users can

- Search** Secretary of State electronic records 24/7 for \$1.00 per search
- Order** certificates and copies online
- File** documents online (account holders only) for a fast turnaround time (typically by the end of the next business day) and no expedited handling fee

Business Organizations & Nonprofits Services

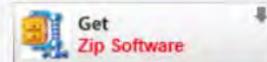
Uniform Commercial Code Services

Trademark Services

Notary Services

Account Services

Required Software



Important

Attention:
The Office of the Secretary of State is completing a project to redact the social security numbers of living persons from the documents filed in this office. As you know,

SOS Home | [Open Records Policy](#) | [Privacy Policy](#) | [Accessibility Policy](#) | [Link Policy](#) | [Disclaimer](#)

Send comments and questions about the web site to: webmaster@sos.state.tx.us

SOSDirect 2 has a new look and some enhanced features.





SOSDirect : Home

426881332 \$90,000.00

Secretary of State – Online Business Services

SOSDirect users can

-  **Search** Secretary of State electronic records 24/7 for \$1.00 per search
-  **Order** certificates and copies online
-  **File** documents online (account holders only) for a fast turnaround time (typically by the end of the next business day) and no expedited handling fee

Business Organizations & Nonprofits Services

- + Search business organizations database
- + Order copies and certificates
- + File documents
- + Obtain Bulk Data Products

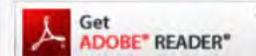
Uniform Commercial Code Services

Trademark Services

Notary Services

Account Services

Required Software



Important

privacy by refraining from including client social security numbers in UCC filings. In addition to the privacy concerns, redaction is costly and may result in delays in processing your documents.

New look for menu of business services.





Searches

Find by Business Name

Find by Number

Find by Person

Find by Registered Agent

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Change Filing

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Bulk Data Products

Business Organization Inquiry

Find by Business Name

Find by Number

Find by Person

Find by Registered Agent

Entity, Supplemental, Global, or Assumed Name

Enter name and press 'Search'. There is a **\$1.00** statutorily authorized fee associated with each search. This fee will not be assessed if an order request is then placed on the results of the search. To view searches or other transactions completed in the current session, click on the Briefcase tab.

Search Options

Entity Name

Name Availability

Supplemental Name

Global Name

Assumed Name

Name

* The statutorily authorized fee to access information will not be assessed if an order request is then placed on or a document filed on the results of the search.

Same search options - just different look to menu. Top tab and left navigation provided.





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Entity Name Search

This entity name search was performed at 6/13/2013 5:44 PM with the following parameters:

Entity Name: Dell Computers

Order	File Number	Entity Name	Entity Type	Entity Status	Name Type	Name Status
<input type="button" value="Order"/>	7444706	Dell Computer Inc.	Foreign For-Profit Corporation	In existence	Fictitious	In use
<input type="button" value="Order"/>	6838710	DELL COMPUTER HOLDINGS L.P.	Domestic Limited Partnership (LP)	In existence	Legal	In use
<input type="button" value="Order"/>	7444706	DELL COMPUTER CORPORATION	Foreign For-Profit Corporation	In existence	Legal	Prior
<input type="button" value="Order"/>	70328800	DELL COMPUTER CORPORATION	Domestic For-Profit Corporation	Merged	Legal	Inactive
<input type="button" value="Order"/>	8011706	DELL COMPUTER USA CORPORATION	Foreign For-Profit Corporation	Withdrawn	Fictitious	Inactive
<input type="button" value="Order"/>	10173706	DELL COMPUTER CATALOG SALES CORPORATION	Foreign For-Profit Corporation	Terminated	Fictitious	Inactive
<input type="button" value="Order"/>	800471828	Computer Modelling Group, Inc.	Foreign For-Profit Corporation	In existence	Legal	In use
<input type="button" value="Order"/>	9163206	DEALER COMPUTER SERVICES, INC.	Foreign For-Profit Corporation	In existence	Legal	In use
<input type="button" value="Order"/>	113795000	IDEAL COMPUTER SERVICES, INC.	Domestic For-Profit Corporation	Forfeited existence	Legal	Inactive
<input type="button" value="Order"/>	112347600	I DEAL COMPUTERS, INC.	Domestic For-Profit Corporation	Forfeited existence	Legal	Inactive





Searches

Find by Business Name

Find by Number

Find by Person

Find by Registered Agent

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Entity Name Search

This entity name search was performed at 6/13/2013 5:46 PM with the following parameters:

Entity Name: **Dell Computers**

Name:	DELL INC.	Jurisdiction:	DE, USA
Fictitious Name:	DELL COMPUTER INC.		
Entity Type:	Foreign For-Profit Corporation	Entity Status:	In existence
File Number:	7444706	Date of Filing:	October 27, 1987
Duration:	Perpetual		
FEIN:		Texas Tax ID:	17424878340
Registered Agent:	CORPORATION SERVICE COMPANY D/B/A+	Entity Address:	1 DELL WAY ROUND ROCK, TX 78682 USA
Registered Office:	211 E. 7th Street Suite 620 Austin, TX 78701 USA		

Filing History

Names Management Assumed Names Associated Entities

View PDF	Document #	Filing Type	Filing Date	Effective Date	Eff. Cond	Page Count
	3105275	Application For Certificate Of Authority	10/27/1987	10/27/1987	No	4
	3105276	Change Of Registered Agent/Office	10/28/1993	10/28/1993	No	1
	3105277	Change Of Registered Agent/Office	9/18/1995	9/18/1995	No	1
	3105278	Change Of Registered Agent/Office	11/20/1996	11/20/1996	No	1
	3105279	Change Of Registered Agent/Office	8/21/1997	8/21/1997	No	1

Entity detail display enhanced to include registered agent info. Initial tab displayed is filing history.



- [Name Filing](#)
- [Change Filing](#)
- [Reports](#)
- [Bulk Data Products](#)

Filing History Names Management Assumed Names Associated Entities

View PDF	Document #	Filing Type	Filing Date	Effective Date	Eff. Cond	Page Count
	3105275	Application For Certificate Of Authority	10/27/1987	10/27/1987	No	4
	3105276	Change Of Registered Agent/Office	10/28/1993	10/28/1993	No	1
	3105277	Change Of Registered Agent/Office	9/18/1995	9/18/1995	No	1
	3105278	Change Of Registered Agent/Office	11/20/1996	11/20/1996	No	1
	3105279	Change Of Registered Agent/Office	8/21/1997	8/21/1997	No	1
	3105280	Maintenance	9/12/1997	9/12/1997	No	1
	3105281	Change Of Registered Agent/Office	1/22/1999	1/22/1999	No	1
	32714250001	Public Information Report (PIR)	12/31/2002	4/28/2003	No	4
	39207060854	Change of Registered Agent/Office	7/31/2003	7/31/2003	No	1
	45437770001	Public Information Report (PIR)	12/31/2003	10/19/2003	No	4
	76782710001	Public Information Report (PIR)	12/31/2004	12/8/2004	No	4
	122161600001	Public Information Report (PIR)	12/31/2005	3/23/2006	No	2
	154961410002	Application for Amended Certificate of Authority	12/20/2006	12/20/2006	No	3
	154961860002	Certificate of Assumed Business Name	12/20/2006	12/20/2006	No	2
	154964050002	Certificate of Assumed Business Name	12/20/2006	12/20/2006	No	2

⏪ ⏩ 1 2 ⏪ ⏩ Page size: 15 21 items in 2 pages

Order Return to Entity Search





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Business Organization Order Documents & Certificates

There is a \$1.00 statutorily authorized fee associated with each search. This fee will not be assessed if an order request is then placed on the results of the search. To view searches or other transactions completed in the current session, click on the Briefcase tab.

File Number: 7444706

Entity Name: Dell Inc.

Find Entity Order Type Order Items Review Order

Select the type of order you wish to place. For all "Certificate of Fact" orders, a "Fact Type" is also required. This will be selected on the following tab.

Order Type

- Certificate of Fact
- Certified copies of a record or document
- Plain copies of a record or document
- Information Letter for Entity

Previous

Next

Same order types - just different order menu.





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Business Organization Order Documents & Certificates

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File Number: 7444706

Entity Name: Dell Inc.

Find Entity **Order Type** Fact Type Review Order

Select the type of order you wish to place. For all "Certificate of Fact" orders, a "Fact Type" is also required. This will be selected on the following tab.

Order Type

- Certificate of Fact
- Certified copies of a record or document
- Plain copies of a record or document
- Information Letter for Entity

Previous

Next >>

When order type selected is "Certificate of Fact," new tab appears for "Fact Type."





Business Organization Order Documents & Certificates

There is a \$1.00 statutorily authorized fee associated with each search. This fee will not be assessed if an order request is then placed on the results of the search. To view searches or other transactions completed in the current session, click on the Briefcase tab.

File Number: 7444706

Entity Name: Dell Inc.

Find Entity Order Type **Fact Type** Review Order

Specify the fact type that you wish to order by clicking on the type from the list below. Please note, if you are ordering multiple fact types, each type will be charged as a separate order item.

Fact Type

- Assumed Name:** List of assumed names on file with the Secretary of State for a particular entity. Does not include county clerk filings.
- Management:** Governing persons last reported to the Secretary of State.
- Name Change:** The most recent prior name, date of change, and current legal name for a particular entity.
- Name Reservation:** Evidences filing of a specific application for reservation of an entity name.
- Status:** Entity status in Secretary of State records (includes 'certificate of existence').
- Status and Name Change:** Includes both status and name change.
- Status and Registered Agent and Office:** Includes status and states the registered agent and registered office address on file for a particular entity with the Secretary of State.

Previous

Add to Order

Fact type selection for certificates of fact clarified.





Searches

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New Filing

There is a filing fee associated with all filings. To review the filing fee schedule, please click here.

Filing Type Entity Name

To begin, please indicate the type of filing you wish to complete, then click the Next button.

Select Form

- Form 201 - Domestic For-Profit Corporation
- Form 202 - Domestic Nonprofit Corporation
- Form 203 - Domestic Professional Corporation
- Form 204 - Professional Association
- Form 205 - Domestic Limited Liability Company (LLC)
- Form 206 - Domestic Professional Limited Liability Company (PLLC)
- Form 207 - Domestic Limited Partnership (LP)
- Form 301 - Foreign For-Profit Corporation
- Form 302 - Foreign Nonprofit Corporation
- Form 303 - Foreign Professional Corporation
- Form 304 - Foreign Limited Liability Company (LLC)
- Form 305 - Foreign Professional Limited Liability Company (PLLC)
- Form 306 - Foreign Limited Partnership
- Form 307 - Foreign Limited Liability Partnership (LLP)
- Form 309 - Foreign Financial Institution
- Form 701 - Domestic Limited Liability Partnership (LLP)

Document selection includes SOS form numbers.





Searches

Find by Business Name

Find by Number

Find by Person

Find by Registered Agent

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Bulk Data Products

Certificate of Formation - Domestic Limited Liability Company (LLC) (Form 205) Form Instructions

There is a filing fee associated with all filings. To review the filing fee schedule, please click here.

Filing Type	Entity Name ?	Registered Agent	Governing Authority	Supplemental	Effective Date	Execution
Review Filing						

Article 1 - Entity Name

The entity formed is a limited liability company. The name of the entity is:

The determination of name availability is made in accordance with chapter 5 of the Business Organizations Code and the Secretary of State rules on name availability (Title 1, Part 4, Chapter 79, Subchapter C of the Texas Administrative Code). Please see links on Help.

The name of the entity must contain the words 'Limited Liability Company' or 'Limited Company,' or an accepted abbreviation of such terms. The name must not be the same as, deceptively similar to, or similar to the name of any existing domestic or foreign filing entity, or any name reservation or registration filed with the Secretary of State.

Check Name Availability A preliminary check is recommended.

WARNING: The rules relating to entity name availability are complex. Even if you believe that the search results indicate that the name is available, the Secretary of State might reject the document after performing its own name search and review.

Entity Name Consent

If the proposed name is similar to an entity name on file, name registration, or name reservation, written consent is required. If you obtained consent, upload it here.

The file submitted must be a .PDF, .TXT, .TIFF, or .TIF file.

New Save Draft feature allows user to save a document during entry process before final submission.





Searches

Find by Business Name

Find by Number

Find by Person

Find by Registered Agent

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SOSDirect : Business Organizations : Filings : Formation / Registration Filing

Certificate of Formation - Domestic Limited Liability Company (LLC) (Form 205) Form Instructions

There is a filing fee associated with all filings. To review the filing fee schedule, please click here.

Filing Type Entity Name ? Registered Agent Governing Authority Supplemental Effective Date Execution
Review Filing

Article

The e
Flo

The r
terms
entity

Your filing has been successfully saved, and will be available for 30 days from today's date. Please note, it has NOT been formally submitted for processing. The filing can be retrieved from your Briefcase for further editing and submission. To continue work on this draft, click 'OK.' To exit to the Home page, click 'Close.'

OK Close

WARNING: The rules relating to entity name availability are complex. Even if you believe that the search results indicate that the name is available, the Secretary of State might reject the document after performing its own name search and review.

Entity Name Consent

If the proposed name is similar to an entity name on file, name registration, or name reservation, written consent is required. If you obtained consent, upload it here.

The file submitted must be a .PDF, .TXT, .TIFF, or .TIF file.

Browse...
Upload File
Save Draft Close << Previous Next >>

Your draft is available from briefcase for 30 days.





Session Summary

Document Number

Client Reference Number

Contact Name and Date

Business Organization Documents

SOSDirect : Briefcase : Business Organization Documents

Briefcase

The Briefcase stores all of the "sessions" (transactions) attributed to your client account. A session is created each time an account holder logs on and completes a transaction, such as a search, order, or filing. A session can be accessed, downloaded, and printed from the briefcase for 30 days. Only sessions created after **Tuesday, May 14, 2013** are currently available.

Session Summary | Document Number | Client Reference Number | Contact Name and Date

Business Organization Documents

All Filings Drafts Submitted-All Submitted-Pending Submitted-Accepted Submitted-Rejected

Contact Name Client Reference Number Date From Date To

Document Number | Organization Name | Filing Type | Date Saved | Contact Name

- Retrieve draft documents from briefcase to continue editing/creating the document before your formal submission to SOS.
- Retrieve rejected documents for correction and resubmission.



Need Help?

Contact SOS by Email

Name availability & general entity information:

corpinfo@sos.state.tx.us

Request copies or certificates of fact:

corpcert@sos.state.tx.us

Legal questions relating to filing issues:

corphelp@sos.state.tx.us

SOSDirect assistance & issues:

sosdirect@sos.state.tx.us



Need Help?

Contact SOS by Email

Contact individual at SOS:

first initial last name@sos.state.tx.us

lwassdorf@sos.state.tx.us



Need Help?

Call (512) 463-5586



- Meridith Debus 463-5747
- Donna Murphy 475-0281
- Briana Godbey 463-5590
- Mike Powell 463-9856
- Carmen Flores 463-5588
- Lorna Wassdorf 463-5591



Mergers & Conversions



Merger Defined

Section 1.002(55)(A) BOC

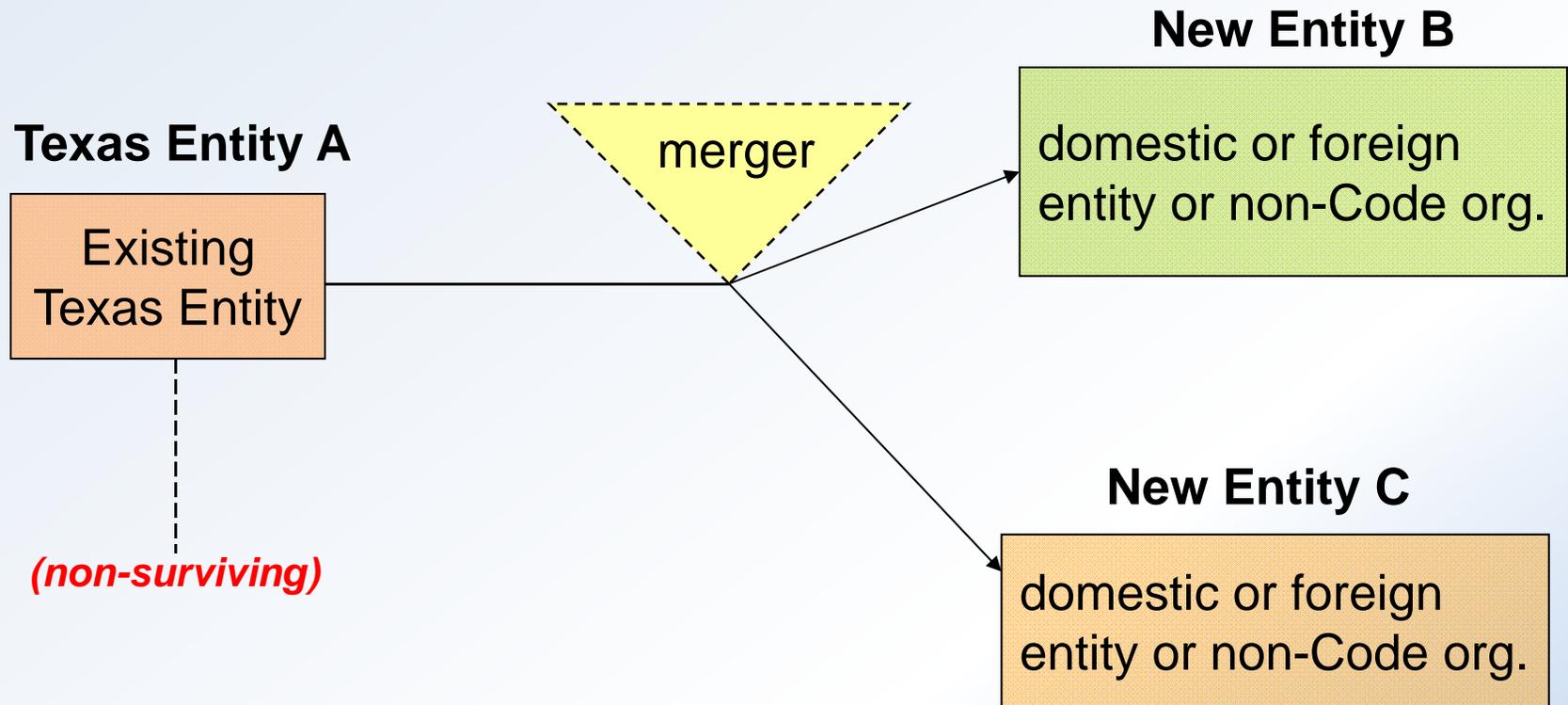
(A) The division of a domestic entity into:

(i) Two or more new domestic entities or other organizations



SOS Form 621

Divisive Merger—definition A (i)



Merger Defined

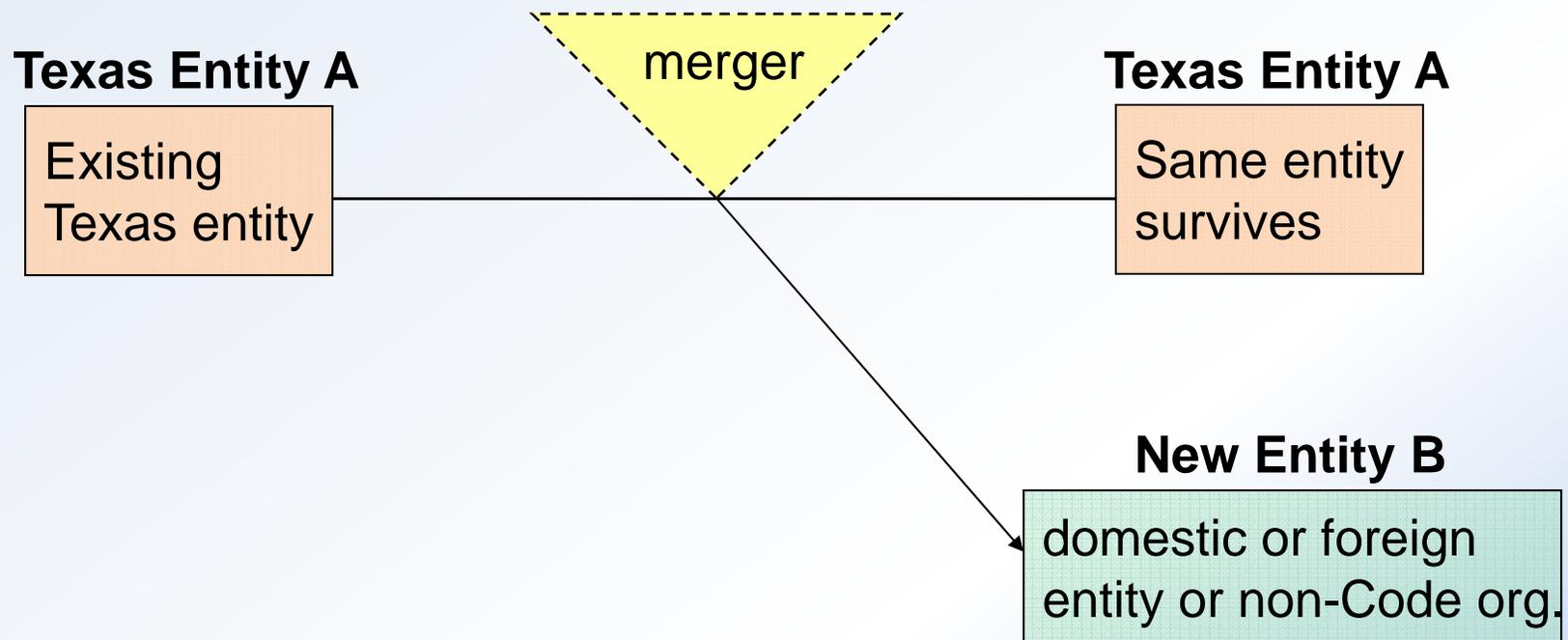
Section 1.002(55)(A) BOC

- (A) The division of a domestic entity into:
 - (ii) A surviving domestic entity and one or more new domestic or foreign entities or non-code organizations.



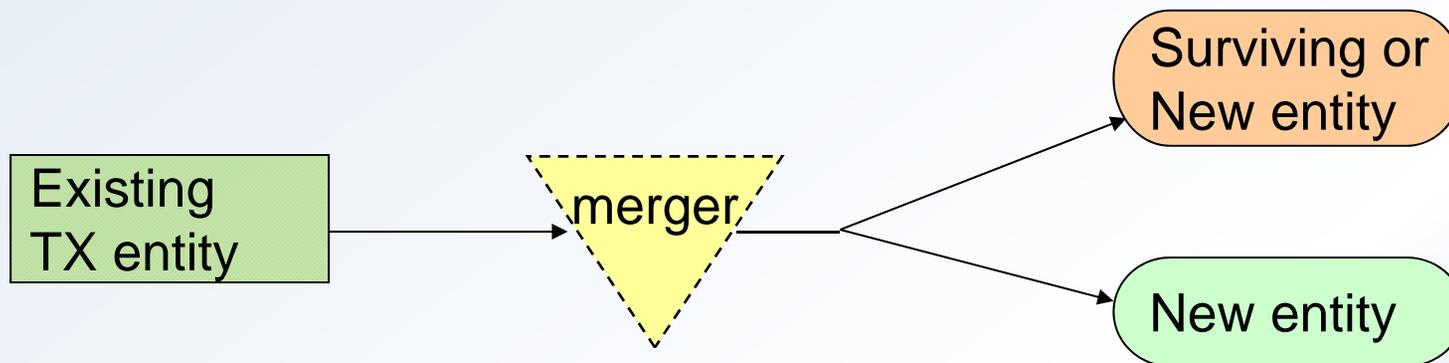
SOS Form 621

Divisive Merger—definition A (ii)



Divisive Merger

1. In a divisive merger there is always one existing Texas entity at the front end of the merger.



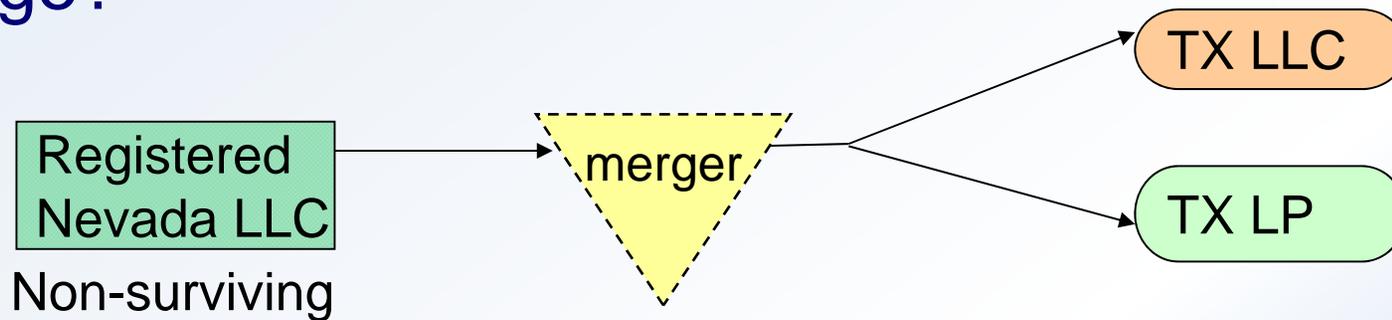
2. *There are always two or more entities at the end of the merger.*



Divisive Merger

Common Questions & Issues

Q: Can a foreign entity use the divisive merger provisions to create a Texas entity into which it will merge?



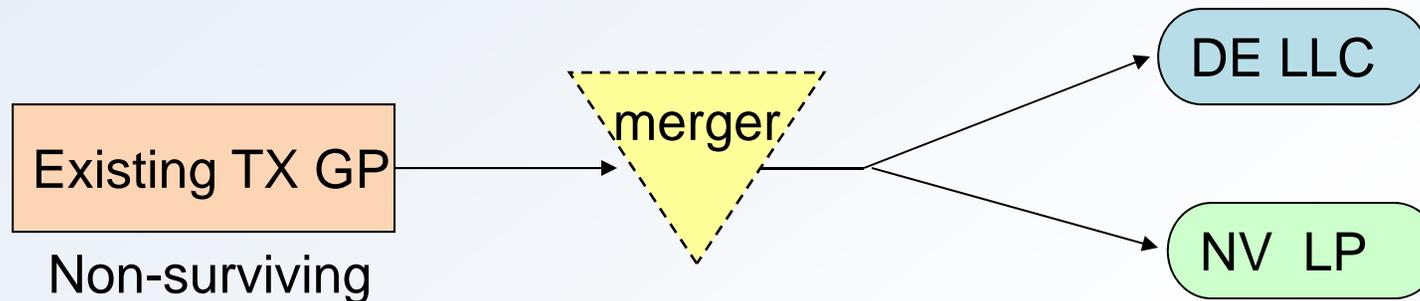
A: **No.** By definition, a divisive merger cannot be used by a foreign entity to create a Texas entity into which to merge.



Divisive Merger

Common Questions & Issues

Q: Can a Texas general partnership use the divisive merger provisions?



A: Yes. A general partnership is not a filing entity; it is a domestic entity that may engage in a divisive merger. In this case, a certificate of merger would not be filed with SOS.



Merger Defined

Section 1.002(55)(B) BOC

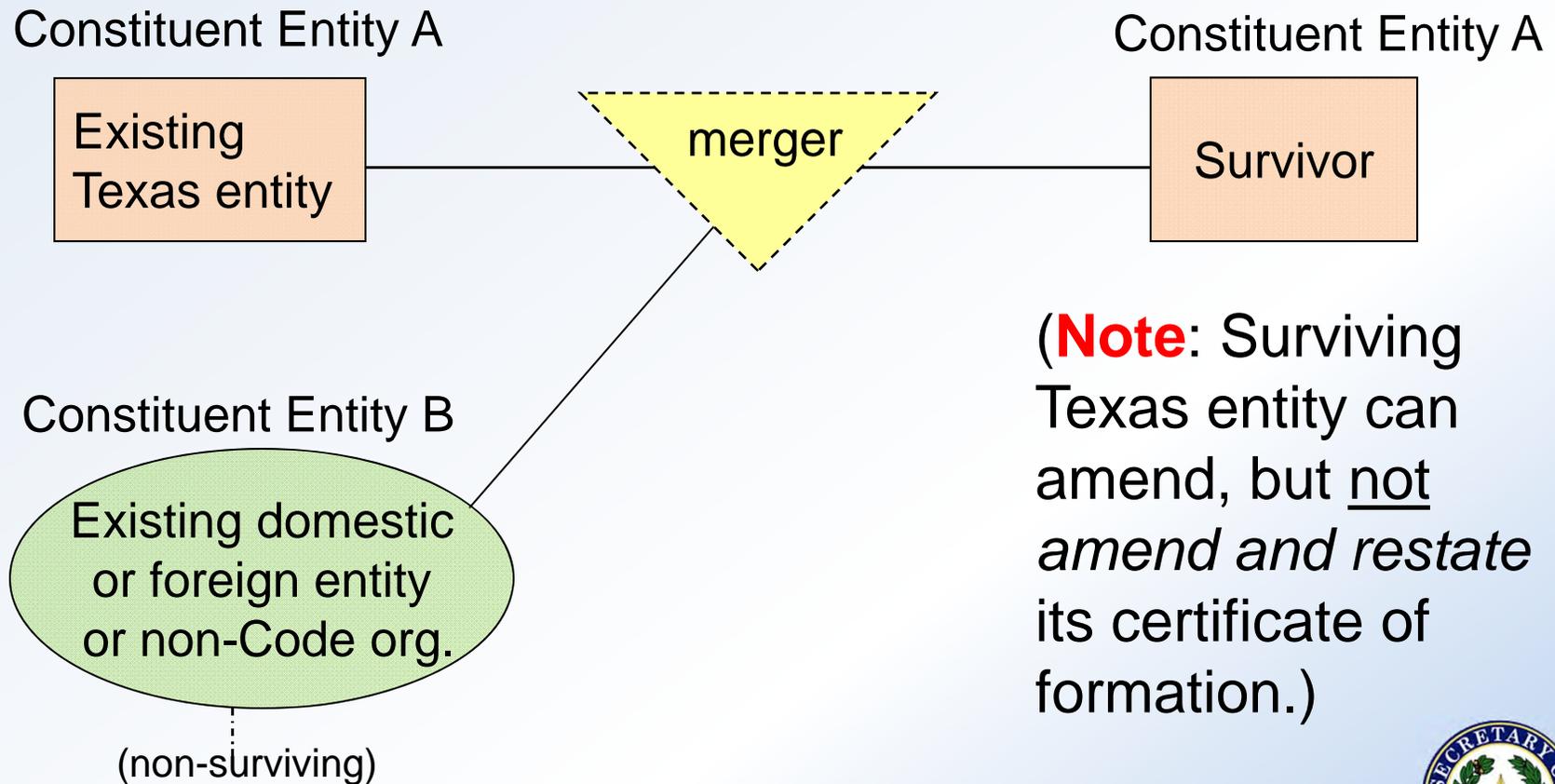
(B) The combination of one or more domestic entities with one or more domestic entities or non-code organizations resulting in:

- (i) One or more surviving domestic entities or non-code organizations;
- (ii) The creation of one or more new domestic entities or non-code organizations; or
- (iii) One or more surviving domestic entities or non-code organizations and one or more new domestic or foreign entities or non-code organizations.



SOS Merger Form 622

Combination Merger—Definition B (i)



(Note: Surviving Texas entity can amend, but not *amend and restate* its certificate of formation.)



SOS Merger Form 622

Combination Merger—Definition B(ii)

“consolidation”

Constituent Entity A

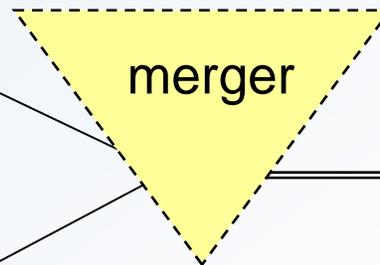
Existing
Texas entity

(non-surviving)

Constituent Entity B

Existing domestic
or foreign entity
or non-Code org.

(non-surviving)



New Entity C

Domestic or foreign entity
or non-Code org.



SOS Merger Form 622

Combination Merger—Definition B (iii)

Constituent Entity A

Existing
Texas entity

(non-surviving)

New Entity C

Domestic or foreign entity
or non-Code org.

merger

Constituent Entity B

Existing domestic
or foreign entity
or non-Code org.

Constituent Entity B

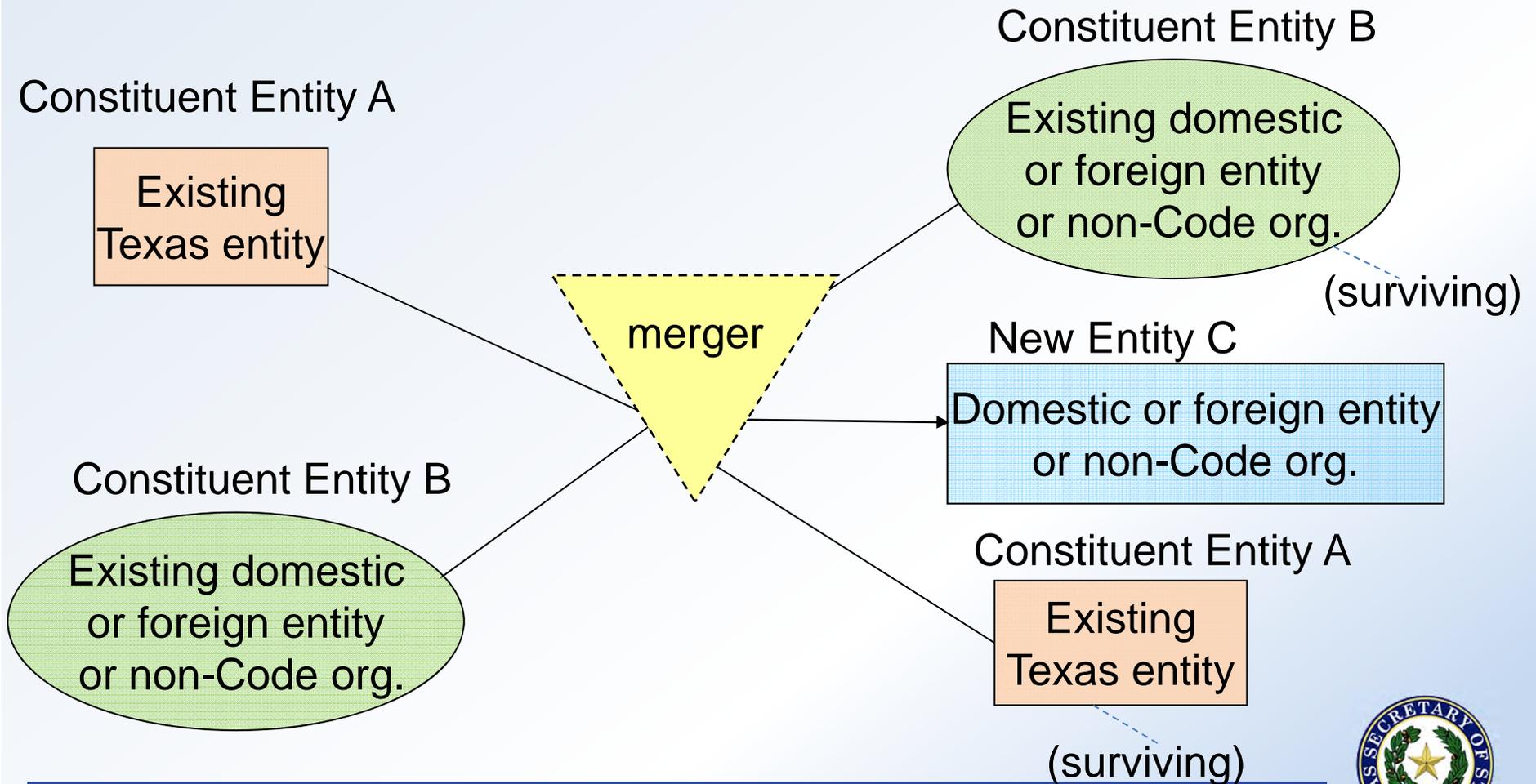
Existing domestic
or foreign entity
or non-Code org.

(surviving)



SOS Merger Form 622

Possible Combination Merger—Definition B (iii)



Short-form Mergers

BOC § 10.006

- Parent must own 90%+ of the outstanding ownership interests of each class & series of each one or more subs to merge with one or more subs.
- One party to the merger must be a Texas entity.
- None of the subs is a Texas partnership!
- Resulting organization(s) are the parent, one or more existing subs, or one or more new organizations.

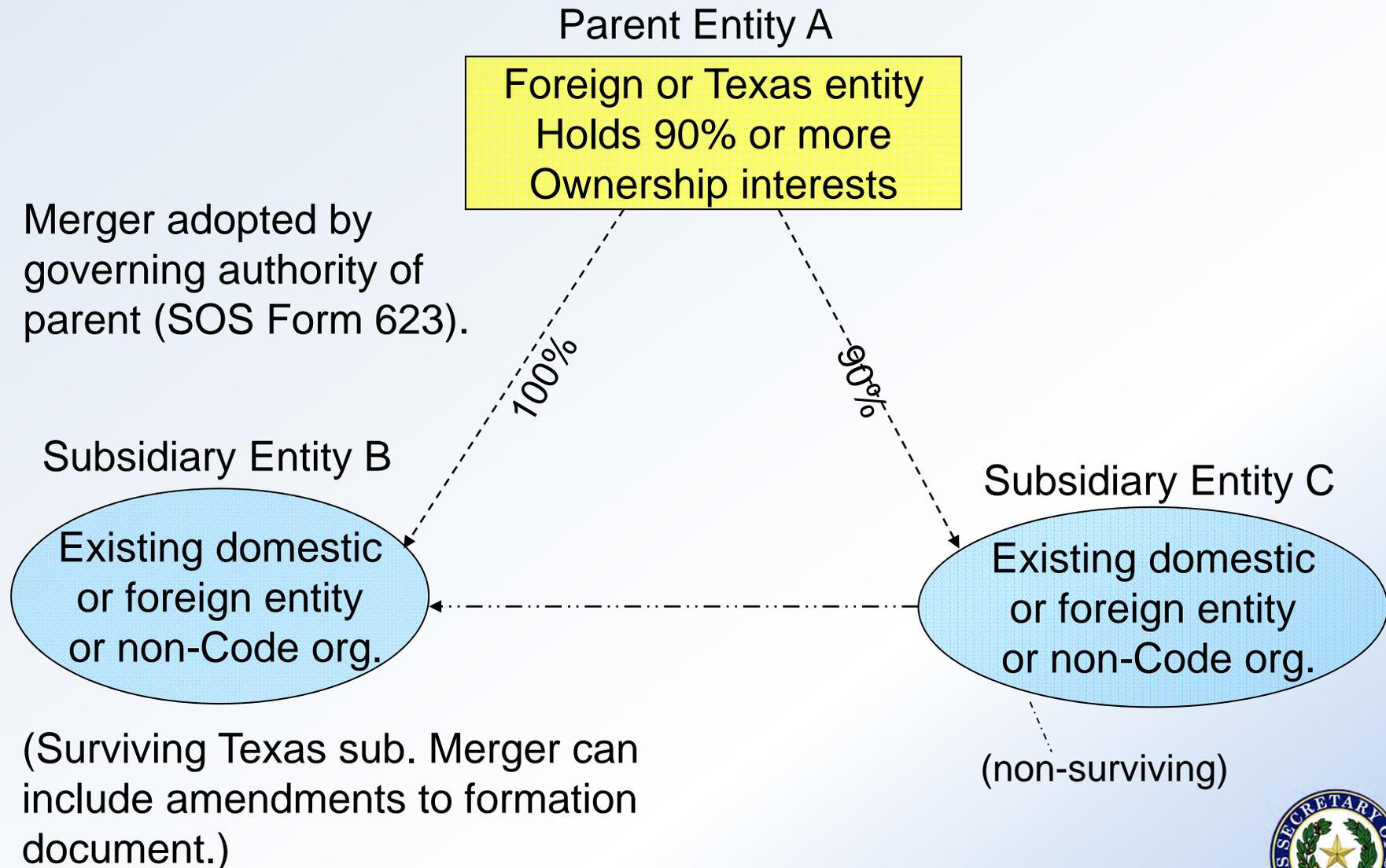


Short-form Mergers

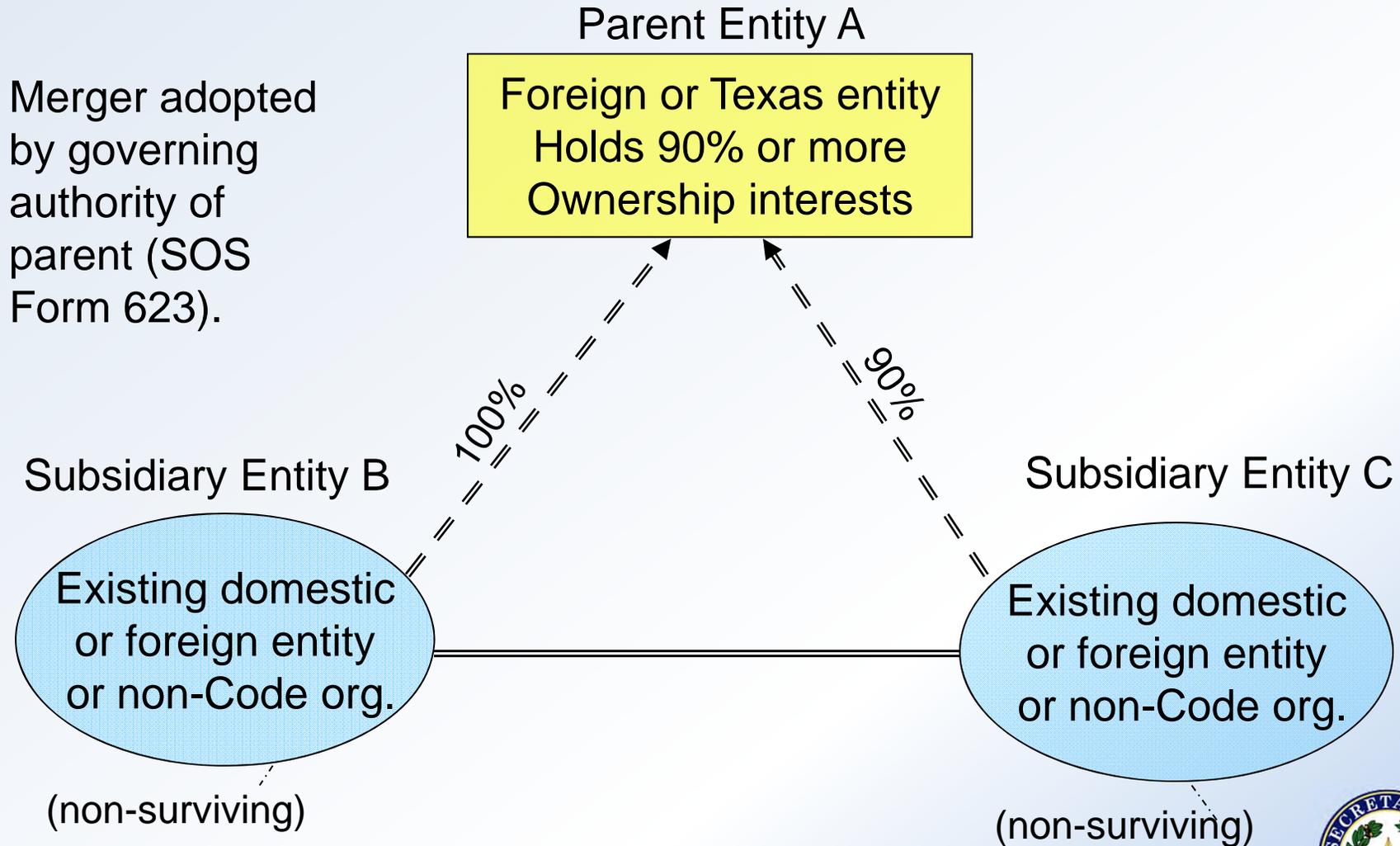
- Approval of Texas subs not required. § 10.006
- If parent is the survivor, only approval required is a resolution of the governing authority of parent.
- When parent not the survivor, a plan of merger must be adopted by action of owners/members of parent.
- No amendments to Texas parent's formation document.
- Merger can include amendments to a domestic sub's formation document.



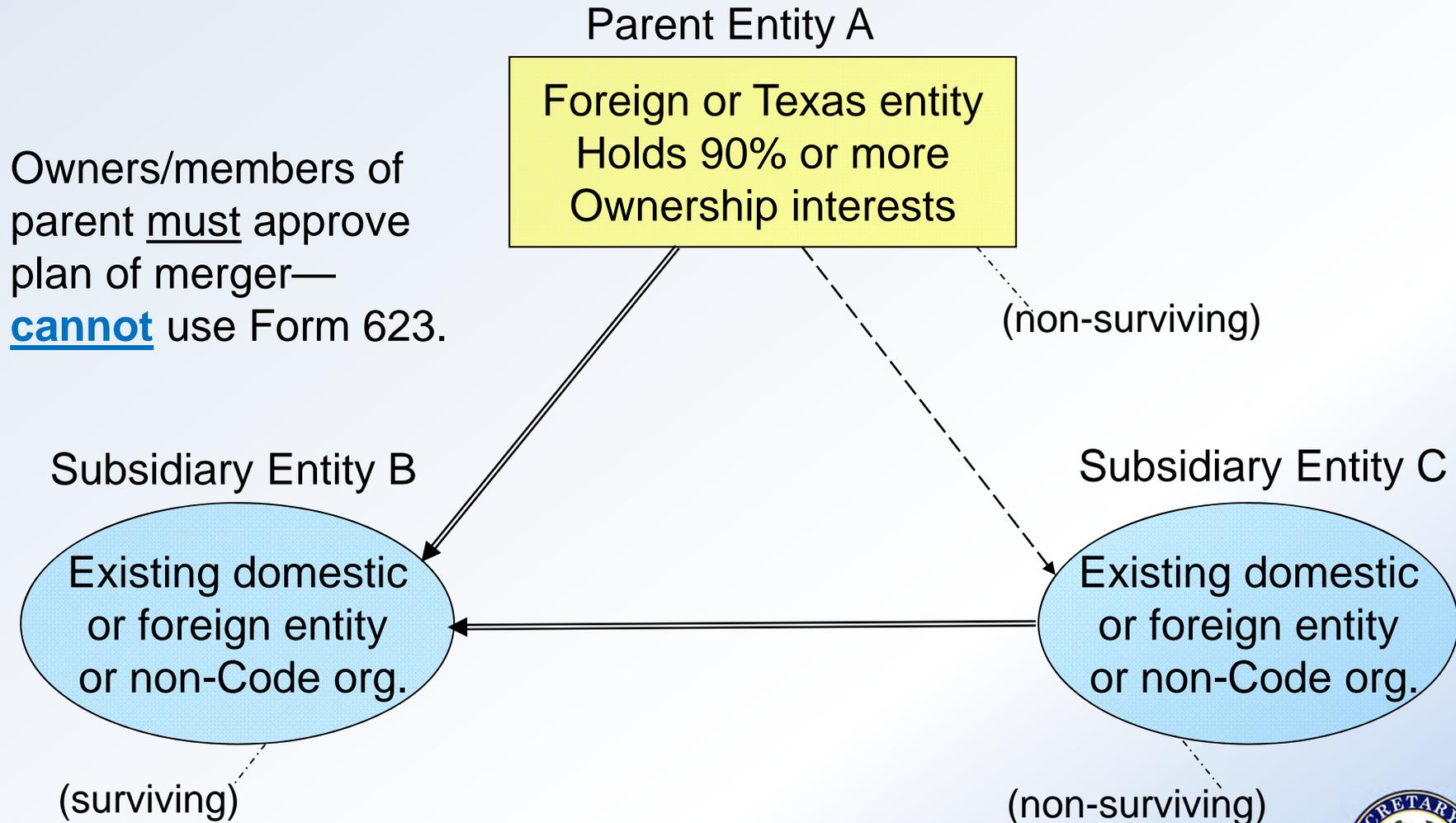
Short Form Merger—sub into sub



Short Form Merger—subs into parent (upstream merger)



“Short Form” Merger—parent into sub (downstream merger)



Short-form Mergers



Most common rejection reasons:

- Merger fails to include copy of resolution of parent organization.
- Date of adoption of resolution not included in merger approval.



Mergers & Conversions

Need statutory authority to merge or convert

Need a written plan and agreement

- Requirements for a plan of merger for domestic entities are found in §§ 10.001 through 10.004.
- Requirements for plan of conversion for domestic entities are found in §§ 10.103 and 10.104.

Need approval of governing persons and/or the owners or members of each domestic entity that is a party to the plan of merger/conversion.



Mergers & Conversions

Special provisions relating to Texas partnership mergers/conversions

- Partnership agreement must contain provisions that authorize a merger or conversion of the type provided for in the plan. BOC §§ 10.009(f) & 10.107(b)
- Partners to approve merger/conversion in the manner set forth in the partnership agreement. BOC §§ 10.009(g) & 10.107(c)



Mergers & Conversions

Statutory restrictions may be placed on authority to merge or convert.

- Unincorporated nonprofit associations do not have authority to merge or convert. BOC § 252.017
- Nonprofit corporation cannot merge into another entity if corporation would, because of merger, lose or impair its charitable status. BOC § 10.010 (a)
- If other parties to merger are domestic or foreign for-profit entities or non-code organizations, nonprofit corporation must be one of survivors to merger. BOC § 10.010 (b)



Nonprofit Conversions

Section 10.108 of the BOC provides that a nonprofit corporation may not convert into a for-profit entity. SOS will accept a certificate of conversion that converts a Texas nonprofit corporation to a:

- foreign nonprofit corporation;
- nonprofit LLC;
- cooperative association; or
- special nonprofit corporation formed under a code other than BOC.

A for-profit entity *may* convert to a nonprofit entity.



Conversion Pitfalls

- A domestic entity created by a plan of conversion is formed by filing the Certificate of Conversion. Its existence is effective on the effectiveness of the conversion.
- Remember to include a statement in the certificate of formation that the converted entity was formed under a plan of conversion and the name, address, date of formation, prior form of organization, and jurisdiction of formation of the converting entity.



Conversion Pitfalls

- Remember to include the filing fee for the certificate of conversion as well as the filing fee for the certificate of formation for the converted domestic filing entity.
- Don't file the Certificate of Formation of the converted entity before the conversion!



Thank You



Come visit us on the web at:

www.sos.state.tx.us

