

# Upcoming Reporting Requirements for Businesses



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Pennsylvania has traditionally been *laissez-faire* with respect to maintenance filings for businesses. Historically, the only filing requirement to maintain a business's continued existence was the decennial report, filed every 10 years if a business had not made an intervening filing. However, changes to both federal and state law will soon require most businesses to make filings with The Financial Crimes Enforcement Network (FinCEN) and the Pennsylvania Department of State.

## Federal Filing

The new federal filing requirement was created by the Corporate Transparency Act and applies to most for-profit businesses, regardless of entity type. There are 23 exemptions from the filing rule, but most businesses — especially small businesses — do not fall within the exemptions.

Businesses subject to the reporting rule will be required to report identifying information for both the business and for each of its beneficial owners (including name, date of birth, address, and a state-issued ID number). "Beneficial owner" means owners of 25 percent or more of reporting companies, as well as individuals who exercise substantial control over a reporting company regardless of ownership. So, aside from owners, senior officers and other similar persons in positions of authority must be included on a report.

The reporting rule goes into effect on January 1, 2024. For existing companies, an initial report must be filed by January 1, 2025. For companies that organize after January 1, 2024, or companies whose information changes after an initial filing, a report must be filed within 30 days of such triggering event.

## State Filings

Beginning in 2024, most Pennsylvania for-profit and nonprofit businesses will be required to file an annual report with the Department of State. Among the things a business must report are its entity type and jurisdiction, address, name of at least one person with managerial responsibility, and names of the business's officers.

While the filing itself is straightforward, the consequences for failing to file can be harsh. If a business fails to file an annual report, the Department of State may initiate an administrative dissolution. If an administrative dissolution occurs, the entity is still in existence and can do business, but the entity loses its limited liability protection, and the name of the entity is up for grabs to a new filer. The state will allow entities to file for reinstatement — which will have a retroactive effect — but the entity will still face liability issues and risk losing its name during the intervening period.

There will be a three-year grace period to give entities a period to assimilate to the new annual reporting requirement before the state begins administrative dissolutions. Once the grace period ends, businesses must be diligent with filing reports to avoid losing limited liability protections and the company name and associated goodwill. Unfortunately, the system established by Pennsylvania will undoubtedly lead to opportunists waiting for a well-established entity to miss a filing, only to pounce on the name and demand an extortionist sum for its return to the business that worked so hard to build value in that name.

## Conclusion

Change is coming — aside from the reporting requirement above, the Pennsylvania legislature overhauled Title 15 (the Business Corporation Law "BCL") more generally. Changes relate both to how companies operate, and to liability issues related to the governance of a company. Keeping up to date on changes in the law — especially after there has been little to no change to the BCL in Pennsylvania for so long — can be challenging to do while also balancing the day-to-day demands of running your business.

*If you have any questions regarding the changes to the BCL or would like to implement changes to your organization's ownership or management ahead of the impending federal and state reporting requirements or for other legal matters, please contact MacDonald Illig Attorneys at 814/870-7600 or [info@mijb.com](mailto:info@mijb.com).* ■