

Form 402—General Information (Resignation of Registered Agent)

The attached form is drafted to meet minimal statutory filing requirements pursuant to the relevant code provisions. This form and the information provided are not substitutes for the advice and services of an attorney and tax specialist.

Commentary

Section 5.204 of the BOC specifies the procedure to be followed when a registered agent of a filing entity or a foreign filing entity desires to resign as registered agent. The registered agent may resign by giving notice to the filing entity or foreign filing entity and the secretary of state. Notice to the secretary of state must be given before the 11th day after the date notice is given to the entity. On compliance with the notice requirements, the appointment of the registered agent and registered office terminate. However, this termination is not effective until the 31st day after the date the secretary of state receives notice (BOC § 5.204(d)).

A person who did not consent to act as an entity's registered agent at the time the instrument appointing the person as registered agent became effective may file a rejection of the appointment as agent. A person rejecting an appointment would use Form 428 rather than this form.

Instructions for Form

- **Preamble:** This section states the intention of the registered agent to resign as the registered agent for service of process for the entity named in the notice.
- **Items 1-2—Entity Information:** The resignation must contain the legal name of the entity represented by the resigning agent. It is recommended that the file number assigned to the entity by the secretary of state be provided to facilitate processing of the document.
- **Items 3-4—Statement of Notice:** Set forth the address of the entity to which the notice of resignation was mailed or delivered. Section 5.204 of the BOC provides that notice must be given to the entity at the address most recently known by the agent. In addition, the resignation must set forth the date the notice was given.
- **Execution:** The notice of resignation must be signed by the resigning registered agent. The notice need not be notarized. However, before signing, please read the statements on this form carefully. *A person commits an offense under section 4.008 of the BOC if the person signs or directs the filing of a filing instrument the person knows is materially false with the intent that the instrument be delivered to the secretary of state for filing. The offense is a Class A misdemeanor unless the person's intent is to harm or defraud another, in which case the offense is a state jail felony.*
- **Payment and Delivery Instructions:** There is no filing fee for a resignation by a registered agent.

Submit the completed form in duplicate. The form may be mailed to P.O. Box 13697, Austin, Texas 78711-3697; faxed to (512) 463-5709; or delivered to the James Earl Rudder Office Building, 1019 Brazos, Austin, Texas 78701. On filing the document, the secretary of state will return the appropriate evidence of filing to the submitter together with a file-stamped copy of the document, if a duplicate copy was provided as instructed. In addition, the secretary of state will notify the entity of the agent's resignation and the necessity of designating a new registered agent and office.