

**Form 427—General Information
(Certificate of Abandonment)**

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

A filing instrument that has not taken effect may be abandoned by agreement of the parties to the transaction. When the effectiveness of a filing instrument is conditioned on the occurrence of a future event or fact and that event or fact does not occur, the parties to the filing instrument must file a certificate of abandonment. The abandonment must be filed before the delayed effective date stated in the instrument or the occurrence of the future event or satisfaction of fact that would cause the instrument to be effective. To abandon the instrument, the parties must file a certificate of abandonment with the secretary of state in accordance with section 4.057 of the Texas Business Organizations Code (BOC).

If the effect of a filing instrument is conditioned on the occurrence of a future event or fact, other than the passage of time, a statement confirming that each event or fact has been satisfied or waived must be filed with the secretary of state not later than the 90th day after the instrument is filed (Form 805). If the statement is not timely filed, the filing instrument does not take effect. A new filing instrument must be filed in order to effectuate the transaction.

The certificate of abandonment may not be filed if the name of an entity that is a party to the transaction has become unavailable. The certificate of abandonment may be filed however if the entity by or for whom the certificate is filed changes its name in the manner provided by the applicable law governing the filing entity (BOC § 4.057(e)).

Instructions for Form

- **Entity Information:** The certificate of abandonment must contain the legal name of the entity. If the instrument to be abandoned is a merger, exchange or conversion, state the name of each entity that is a party to the transaction. It is recommended that the file number assigned by the secretary of state to the named entity or entities be provided to facilitate processing of the document.
- **Instrument to be Abandoned:** The certificate of abandonment must state the nature of the instrument (type of filing), the date of filing of the instrument, and the names of all parties to the instrument.
- **Statement of Approval:** The abandonment must state that the filing instrument has been abandoned in accordance with the agreement of the parties.
- **Execution:** A certificate of abandonment must be signed on behalf of each entity that is a party to the action or transaction by a person authorized to act on behalf of the entity. Generally, a governing person or managerial official of the entity signs a filing instrument.

The certificate of abandonment 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:** The filing fee for a certificate of abandonment is **\$15**, unless the filing entity is a nonprofit corporation or a cooperative association. The filing fee for a nonprofit corporation or a cooperative association is **\$5**. Fees may be paid by personal checks, money orders, LegalEase debit cards, or American Express, Discover, MasterCard, and Visa credit cards. Checks or money orders must be payable through a U.S. bank or financial institution and made payable to the secretary of state. Fees paid by credit card are subject to a statutorily authorized convenience fee of 2.7 percent of the total fees.

Submit the completed form in duplicate along with the filing fee. 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. If a document is transmitted by fax, credit card information must accompany the transmission (Form 807). 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.

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