

14A:13-14

LEGISLATIVE FACT SHEET

ON "Corporation Business Activities Reporting Act"

N.J.R.S. 14A:13-14

(Amendment)

LAWS OF 1973

CHAPTER 171

June 7, 1973

SENATE

ASSEMBLY 1255

INTRODUCED May 18, 1972

BY De Rorte

STATEMENT

YES

NO

AMENDED DURING PASSAGE

YES

NO

HEARING None discovered

VETO

SENATE COMMITTEE STATEMENT

FISCAL NOTE

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171 6-7-73
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ASSEMBLY, No. 1255

STATE OF NEW JERSEY

INTRODUCED MAY 18, 1972

By Assemblyman DE KORTE

Referred to Committee on Taxation

AN ACT requiring the filing of a notice of business activities report by a foreign corporation which has not received a certificate of authority to do business in this State, or does not file a return under the "Corporation Business Tax Act" ***[**or the "Corporation Income Tax Act,"**]** * **[*,*]** * **[*,*]** * or the "Corporation Income Tax Act,"** but which carries on activities or owns or maintains property in this State; providing for penalties and making an appropriation.

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. This act shall be known as the "Corporation Business Activi-
2 ties Reporting Act."

1 2. Every foreign corporation which during any calendar or fiscal
2 accounting year ending after December 31, ***[1972]*** *1973*,
3-4 carried on any activity or owned or maintained any property in
5 this State, unless specifically exempted under section 3 of this act,
5A shall be required to file a notice of business activities report, as
5B hereinafter provided.

6 Activities or property maintenance in this State which require
7 corporations to file this report are:

- 8 a. the maintenance in this State of an office or other place of
9 business; or
10 b. the maintenance of personnel in this State, including the
11 presence of employees, agents, representatives or independent con-
12 tractors in connection with the corporation's business, even though
13 not regularly stationed in this State; or
14 c. the ownership or maintenance of real and/or tangible personal
15 property directly used by the corporation in this State; or
16 d. the ownership or maintenance of tangible and/or intangible
17 property in this State which is used by others; or

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

18 e. receiving payments from persons residing in this State, or
 19 businesses located in this State, aggregating in excess of \$25,000.00
 20 regardless of any other connections with this State; or

21 f. the derivation of income from any source or sources within
 22 this State; or

23 g. any other activity or property in, or interrelationships with,
 24 this State as designated by the director.

1 3. A foreign corporation shall not be required to file a notice of
 2 business activities report if

3 a. by the end of an accounting period for which it was otherwise
 4 required to file a notice of business activities report under this
 5 act, it had received a certificate of authority to do business in this
 6 State; or

7 b. a timely return has been filed under the Corporation Business
 8 Tax Act ***[**or the Corporation Income Tax Act**]*** ***or the Corpora-*
 9 *tion Income Tax Act*** for such accounting period.

1 4. For the purposes of this act, unless the context requires a
 2 different meaning:

3 a. "Director" shall mean the Director of the Division of Taxa-
 4 tion of the State Department of the Treasury.

5 b. "Corporation" shall mean any corporation, joint-stock com-
 6 pany or association and any business conducted by a trustee or
 7 trustees wherein interest or ownership is evidenced by a certificate
 8 of interest or ownership or similar written instrument.

9 c. "Calendar year" shall mean an accounting period ending on
 10 the last day of December on the basis of which the corporation is
 11 required to report for Federal income tax purposes.

12 d. "Fiscal year" shall mean an accounting period ending on
 13 any day other than the last day of December on the basis of which
 14 the corporation is required to report for Federal income tax pur-
 15 poses.

16 e. "Accounting period" shall mean the calendar or fiscal year,
 17 or part thereof, for which a report is due under this act.

1 5. a. Every foreign corporation shall annually file a notice of
 2 business activities report with respect to all or any part of each
 3 of its calendar or fiscal accounting years ending after December
 4 31, ***[**1972**]*** **1973**, on a report which shall be filed on or before
 5 the fifteenth day of the fourth month after the close of such
 6 calendar or fiscal accounting year.

7 b. For purposes of this act, every foreign corporation shall use
 8 the same calendar or fiscal accounting year upon which it reports
 9 to the United States Treasury Department for Federal income
 10 tax purposes.

1 6. The director shall design a form of report and forms for such
2 additional statements or schedules as he may require to be filed
3 therewith. Such form shall contain a provision in which the foreign
4 corporation may disclaim liability for the corporation business
5 tax *~~and the corporation income tax~~* *and the corporation in-*
6 *come tax***, and any obligation to obtain a certificate of authority
7 to do business in this State and shall provide for the setting forth
8 of such additional facts as the director may deem necessary for the
9 proper enforcement of this act. He shall cause a supply thereof
10 to be printed and shall furnish appropriate blank forms to each
11 corporation upon application or otherwise as he may deem
12 necessary. Failure to receive a form shall not relieve any corpora-
13 tion from the obligation to file a report under the provisions of this
14 act. Each such report shall have annexed thereto a certification by
15 the president, vice president, comptroller, secretary, treasurer,
16 assistant treasurer, accounting officer of the corporation or any
17 other officer of the corporation duly authorized so to act to the
18 effect that the statements contained therein are true. The fact that
19 an individual's name is signed on a certification of the report
20 shall be prima facie evidence that such individual is authorized to
21 sign and certify the report on behalf of the corporation. In the
22 case of a corporation in liquidation or in the hands of a receiver or
23 trustee, certification shall be made by the person responsible for
24 the conduct of the affairs of such corporation.

1 7. a. No foreign corporation carrying on any activity or owning
2 or maintaining any property in this State which has not obtained
3 a certificate of authority to do business in this State and disclaims
4 liability for the corporation business tax *~~and the corporation in-~~
5 ~~come tax~~* *and the corporation income tax*** shall maintain any
6 action or proceeding in any State or Federal court in New Jersey,
7 until such corporation shall have filed a timely notice of business
7A activities report.

8 b. The failure of a foreign corporation to file a timely report
9 shall prevent the use of the courts in this State for all contracts
10 executed and all causes of action that arose at any time prior to
11 the end of the last accounting period for which the corporation
12 failed to file a required timely report.

13 c. The court in which the issues arise shall be granted the power
14 to excuse the corporation for failure to file a report when due, and
15 restore the right of access to the courts in this State. Such failure
16 to file a report shall be excusable where the court finds the corpo-
17 ration has sustained the burden of establishing that

18 (1) the failure to file a timely report was done in ignorance of

19 the requirement to file, such ignorance was reasonable in all cir-
20 cumstances; and

21 (2) all taxes, interest and civil penalties due the State for all
22 periods have been paid, or provided for by adequate security or
23 bond approved by the director, before the suit may proceed.

1 8. This act shall be governed in all respects by the provisions
2 of the State tax uniform procedure law (subtitle 9 of Title 54 of
3 the Revised Statutes) except only to the extent that a specific
4 provision of this act may be in conflict therewith.

1 9. The Director, Division of Taxation in the Department of
2 Treasury shall administer the provisions of this act, adopt regu-
3 lations necessary or desirable to effectuate its purposes, prepare
4 instructions for guidance and information and provide for all other
5 matters reasonably required for the fair, impartial and practical
6 administration of this act.

1 10. If any clause, sentence, paragraph, section or part of this
2 act shall be adjudged by any court of competent jurisdiction to
3 be invalid, such judgment shall not affect, impair or invalidate
4 the remainder thereof, but shall be confined in its operation to the
5 clause, sentence, paragraph, section or part thereof directly in-
6 volved in the controversy in which such judgment shall have been
7 rendered.

1 11. This act shall take effect immediately and shall be applicable
2 to corporations with calendar or fiscal accounting years ending
3 after December 31, 1973.

SENATE REVENUE, FINANCE AND
APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1255

(Second Official Copy Reprint)

STATE OF NEW JERSEY

DATED: APRIL 12, 1973

Titled the "Corporation Business Activities Reporting Act" this bill requires the filing with the Division of Taxation a notice of business activities by a foreign corporation which has not received a certificate of authority to do business in the State, or does not file a return under the "Corporation Business Tax Act" or the "Corporation Income Tax Act", but which carries on activities or owns or maintains property in the State.

The bill takes effect immediately and is applicable to corporations with calendar or fiscal accounting years ending after December 31, 1973.

FISCAL NOTE TO
ASSEMBLY, No. 1255

STATE OF NEW JERSEY

DATED: APRIL 25, 1973

The Second Official Copy Reprint of Assembly Bill No. 1255 would require the filing of a notice of business activities report by a foreign corporation which has not received a Certificate of Authority to do business in New Jersey or does not file a return under the Corporation Business Tax Act or under the Corporation Income Tax Act.

The Division of Taxation states that enactment of this legislation would not increase the revenues of the State and any expenditures with respect to printing of forms and compliance would be absorbed by the division.

In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.