

## DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

## NOTICE OF FINAL RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to sections 104 and 105 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.04 (2011 Supp.) and D.C. Official Code 2-1801.05 (2007 Repl.)); Mayor's Order 86-38, dated March 4, 1986; D.C. Official Code § 29-101.06 (2011 Repl.); and Mayor's Order 2011-178, dated October 25, 2011, hereby gives notice of the adoption of the following amendments to section 3302 (Corporations Division Infractions) of chapter 33 (Department of Consumer and Regulatory Affairs (DCRA) Infractions) of title 16 (Consumers, Commercial Practices and Civil Infractions) of the District of Columbia Municipal Regulations.

This rulemaking implements the District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2010, effective July 2, 2011 (D.C. Law 18-378; D.C. Official Code §§ 29-101.01, *et seq.* (2011 Repl.)) by promulgating a schedule of fines for civil infractions arising thereunder.

A Notice of Emergency and Proposed Rulemaking setting the schedule of fines was published in the *D.C. Register* on December 16, 2011 (58 DCR 10729); a subsequent Notice of Emergency Rulemaking was published in the *D.C. Register* on March 30, 2012 (59 DCR 2475). Pursuant to D.C. Official Code § 29-102.01(c) (2011 Repl.), an approval resolution, the District of Columbia Official Code Title 29 (Business Organizations) Schedule of Civil Fines and Penalties Regulations Approval Resolution of 2012 (P.R.19-668), was submitted to the Council of the District of Columbia and was approved on June 26, 2012.

The Department of Consumer and Regulatory Affairs took final rulemaking action on June 28, 2012. This rulemaking will become effective upon publication of this notice in the *D.C. Register*.

**Chapter 33 (Department of Consumer and Regulatory Affairs (DCRA) Infractions) of title 16 (Consumers, Commercial Practices and Civil Infractions) of the District of Columbia Municipal Regulations is amended as follows:**

**Section 3302 (Corporation Division Infractions) is amended to read as follows:**

**3302 CORPORATIONS DIVISION INFRACTIONS**

3302.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) Submitting a document pursuant to the District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2010, effective July 11, 2011 (D.C. Law 18-378; D.C. Official Code §§ 29-101.01, *et seq.*) (the Act) and the document contains a false statement;

- (b) Operating in the District:
  - (1) As a domestic business corporation or professional corporation and without articles of incorporation filed under D.C. Official Code § 29-302.02 (2011 Repl.);
  - (2) As a domestic nonprofit corporation and without articles of incorporation filed under D.C. Official Code § 29-402.02 (2011 Repl.);
  - (3) As a domestic limited liability partnership and without a statement of qualification filed under D.C. Official Code § 29-610.01 (2011 Repl.);
  - (4) As a domestic limited partnership and without a certificate of limited partnership filed under D.C. Official Code § 29-702.01 (2011 Repl.);
  - (5) As a domestic limited liability company and without a certificate of organization filed under D.C. Official Code § 29-802.01 (2011 Repl.);
  - (6) As a domestic general cooperative association and without articles of incorporation filed under D.C. Official Code § 29-906 (2011 Repl.);
  - (7) As a domestic limited cooperative association and without articles of organization filed under D.C. Official Code § 29-1003.02 (2011 Repl.); or
  - (8) As a domestic statutory trust and without a certificate of trust filed under D.C. Official Code § 29-1202.01 (2011 Repl.);
- (c) Operating in the District as a foreign filing business organization entity:
  - (1) Without having obtained a certificate of registration under D.C. Official Code § 29-105.02 (2011 Repl.); or
  - (2) After its certificate of registration has been terminated under D.C. Official Code § 29-105.11 (2011 Repl.); and
- (d) Operating in the District under the jurisdiction of the Act, but after the business organization has been dissolved, whether voluntarily, judicially, or administratively; provided, that this subsection shall not apply if the dissolution has been revoked or the business organization has been reinstated in accordance with the Act.

- 3302.2 Violation of any of the following provisions shall be a Class 3 infraction:
- (a) Failure to appoint and maintain a registered agent under D.C. Official Code § 29-104.02 (2011 Repl.):
    - (1) As a domestic filing entity;
    - (2) As a domestic limited liability partnership that does not maintain a place of business in the District; or
    - (3) As a qualified foreign entity; and
  - (b) Failure to register a trade name with the Department of Consumer and Regulatory Affairs under D.C. Official Code § 47-2855.02 (2005 Repl.):
    - (1) As a general partnership;
    - (2) As a foreign or domestic limited partnership;
    - (3) As a foreign or domestic limited liability company; or
    - (4) As a foreign or domestic corporation.