



## **S.F. No. 1734 – Minnesota Business Filing Fraud Prevention Act; deceptive mailings prohibited (1<sup>st</sup> engrossment)**

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### **Overview**

**S.F. 1734** establishes a process for complainants who believe that a business filing was made fraudulently to submit a declaration of wrongful filing with the Office of the Secretary of State (SOS). The SOS must make preliminary and final determinations regarding whether the filing subject to the complaint is fraudulent. If the SOS determines that a filing is fraudulent, the filing must be treated as if the filing never existed. If a business is registered using a Minnesota resident’s name, address, or identity within the resident’s consent, the business is deemed dissolved. The final order of the SOS is appealable to district court. This bill also requires nongovernment entities who send solicitations to businesses to include clear statements that the solicitation is an advertisement and not from a government agency. This bill provides criminal penalties and classifies data.

### **Article 1 – Minnesota Business Filing Fraud Prevention Act**

**Section 1. [300.70; Citation and definitions]** This section defines “complainant,” “filer,” and “office.”

**Section 2. [300.71; Declaration of wrongful filing]** This section permits a complainant to deliver a declaration of wrongful filing to the SOS if the complainant believes that a filing made under chapters 301 to 323A was not authorized and was filed with the intent to modify the ownership, registered agent, address, or other business information or register a business using another person’s information. A declaration must include the file number for the allegedly wrong filing, the complainant’s contact information and interest in the business that is the subject of the filing, and other supporting evidence. A false material statement of fact in a declaration is a violation of section 609.48 (perjury). The SOS may reject a declaration if the declaration is incomplete, is not on a form issued by the SOS, or was delivered with intent to harass or defraud.

**Section 3. [300.72; Notice]** If the SOS accepts the declaration, the SOS must provide notice of the declaration and the process to resolve the allegations to the complainant and the filer. If notice to the filer is returned as undeliverable, the office may deem the filing fraudulent and issue a final order.

**Section 4. [300.73; Response]** Within 21 calendar days of receipt of the notice, a filer must provide a response to the SOS.

**Section 5. [300.74; Procedure when no response received]** If the filer fails to respond within 21 calendar days, the SOS must deem the filing fraudulent and issue a final order.

**Section 6. [300.75; Procedure when response received]** If the filer responds within 21 calendar days, the SOS must investigate the allegations and send a preliminary determination notice to the complainant and filer. The SOS may request additional information from the parties. Within 10 calendar days of receipt of the notice, the nonprevailing party must respond to the notice with additional information or evidence. The prevailing party may send additional information within the same time period. If the nonprevailing party fails to respond, the preliminary determination becomes final and the SOS must issue a final order. If the nonprevailing party responds, the office must consider the additional information, make a final determination and issue a final order.

**Section 7. [300.76; Final order]** If the SOS issues a final order determining that a filing is fraudulent, the filing must be treated for legal purposes as if the filing never existed. If a business is registered using a Minnesota resident's name, address, or identity within the resident's consent, the business is deemed dissolved. The SOS must mark the filing or business record as fraudulent or unauthorized, redact names and addresses used without authorization.

If the SOS determines that a filing was not fraudulent or that there was insufficient information to make a determination, the final order must state that the office is not removing the filing from the database and provide the rationale for the determination.

**Section 8. [300.77; Judicial review]** A party aggrieved by a final order may appeal the decision to district court. The aggrieved party must serve the adverse party and the SOS in person or by mail. The court administrator must not charge a filing fee for an appeal filed under this section. The SOS may elect to be a party to the judicial proceedings. The court may consider the matter in or out of chambers. A party aggrieved by the district court's decision may appeal the matter in the same manner as any other civil case.

**Section 9. [300.78; Data practices]** This section classifies data submitted by the complainant or filer as private data on individuals or nonpublic data. A final order is public, except that the complainant or filer's personal contact information is private data on individuals. The unredacted version of a filing deemed fraudulent is nonpublic data or private data on individuals, but the redacted version is public data. The SOS may communicate data of any classification to aid an investigation or if required to do so pursuant to a court order or law.

**Section 10. [Rulemaking]** The SOS is authorized to adopt rules to carry out the provisions of this act, and no time limit applies to the rulemaking authority.

**Section 11. [Appropriation]** This section provides an appropriation to the SOS to administer this act. The amount is not determined.

**Section 12. [Effective date]** Sections 1 to 9 are effective for filings made on or after January 1, 2026.

## **Article 2 – Deceptive Mailings**

**Section 1. [300.80; Prohibition of deceptive business mailings]** For purposes of this section, a solicitation is a communication sent by a nongovernment entity that notifies the business of an operating requirement or offers a service that relates to filing documents or reporting information to the SOS.

Solicitations sent to businesses must include clear statements that the solicitation is an advertisement and not from a government agency and must provide the name and physical address of the entity sending the solicitation. A solicitation must not imply that the solicitation is an official government notice, incorporate the state seal or other official branding of the state, or imply a legal duty to act on the solicitation.

A violation of this section is a misdemeanor and a violation of the Uniform Deceptive Trade Practices Act (UDTPA). The UDTPA authorizes injunctive relief and attorney fee awards to the prevailing party.

## **Article 3 – Conforming Changes**

**Section 1. [13.485, subd. 1; Scope]** This section makes a technical change to the Minnesota Government Data Practices Act (MGDPA).

**Section 2. [13.485, subd. 7; Business fraud investigations]** This section makes a conforming change to the MGDPA.

**Section 3. [609.48, subd. 1; Acts constituting]** This section makes a conforming change to the criminal code.